CONDITIONS OF IMPRISONMENT
IN EU MEMBER STATES
AND THE CANDIDATE COUNTRIES

STUDY

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FOREWORD

The International Centre for Prison Studies (ICPS) of London University is pleased to present this report to the European Parliament on the conditions of imprisonment in EU Member States and the candidate countries. It is important to bear in mind that prisons cannot be considered in isolation. The use which a country makes of them and the conditions within them depend on many external circumstances. In all current member states of the EU and in three of the candidate countries the number of persons in prison has been rising significantly in recent years, despite the fact that in many of these countries crime rates have been falling and there is no evidence of improvements of levels of detection of crime. In the Netherlands, for example, the number of people in prison has doubled in the last 12 years and in England and Wales it has gone up by 60% over the same period. Traditionally in the existing states of the EU imprisonment has been regarded as a place of last resort, to be used only for the most serious crimes and then for the shortest necessary time. This principle is now under threat in a number of countries. This has happened for two reasons. The first is that courts are using imprisonment more often in cases where they would not previously have done so. The second is that sentence lengths in many countries have increased considerably. The work which ICPS does around the world convinces us that an excessive use of imprisonment can be a challenge to the democratic stability of a country. This fact needs to be borne in mind in Europe.

This increased use of imprisonment and resultant levels of overcrowding have had severe consequences for prison conditions. In some countries regimes have become impoverished, with reduced work, education and training opportunities available for prisoners. The implications for health are very worrying, as the following report shows. In all countries there are issues to do with the physical and mental health of prisoners and the increase of infectious diseases, such as tuberculosis, and blood borne diseases, such as HIV and hepatitis, are of major concern not only with the prison environment but also for the community at large.

Throughout the world the most marginalised groups in any society are generally to be found in disproportionate numbers within prisons. This means that within prisons one has to be constantly alert to the dangers of discrimination against minority groups, of racism and of xenophobia. In many countries the proportion of foreign nationals in prisons has increased significantly in recent years and it is now over 30% in eight of the countries in this study. It should be borne in mind that this report is concerned only with prisons. It does not deal with problems of detention in other locations, such as police stations, immigration detention centres or secure hospitals.

A further development in recent years has been the concern of state governments about national and international terrorism. This has had important implications for prison conditions. In several countries very restrictive conditions of imprisonment have been imposed on prisoners accused or convicted of terrorist or terrorist-related

1 The term ‘candidate countries’ is used throughout since this was the phrase used in the contract documents. In fact, the countries studied, in addition to the 15 current EU member states, are the 10 countries which have been given EU accession status.
offences. In some cases regulations which were introduced on a temporary basis for a very small number of prisoners have become permanent and have been applied to increasing numbers of persons, as has happened in Italy. In other jurisdictions, such as England and Wales, persons have been detained without charge and are held in conditions of the highest security.

Having expressed all of these concerns, it is important also to recognise the safeguards which exist in Europe to ensure that prisoners do not suffer torture or inhuman or degrading treatment. The most important is the European Convention on Human Rights and Fundamental Freedoms and the access which prisoners have to the European Court of Human Rights. In recent years the Court has been active in dealing with cases of prisoners brought before it and the case law relating to Court decisions is now wide-ranging. The most significant cases are described in the following report.

The Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment (CPT) is unique in the right which it has to inspect all places of detention in any member state. Its reports following visits to individual states and its periodic reports have been influential in ensuring that failure to observe human rights standards are highlighted. In a number of countries governments have responded to CPT criticism by changing their legislation and regulations. In the light of the increasing pressure on prison conditions for the reasons mentioned above, the work of the CPT is now central to any attempt to maintain standards of decency and humanity in prisons and to ensure that prison conditions meet international human rights standards. State parties, both individually and through the European Parliament, should do everything possible to support its work.

Professor Andrew Coyle

March 2004
SUMMARY

The report

The report looks at the prison situation in the 15 European Union (EU) Member States and the 10 candidate (accession) countries (27 jurisdictions). The main emphasis in the report is on the extent to which the prison law conforms to international human rights requirements and how far prison systems operate within the legal framework set by the United Nations and Council of Europe human rights instruments and the interpretation of that framework in the Council of Europe recommendations and reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). The report is concerned with prisons only, although similar issues arise wherever people are detained, such as juvenile reformatories, mental hospitals and immigration detention centres.

The report is based on an analysis of the prison laws and official reports from the 27 jurisdictions, reports of the United Nations and the Council of Europe and information from international and domestic non-governmental organisations (NGOs) and other sources, such as the US State Department Annual Human Rights Reports.

The existing Member States and candidate countries

The different histories of the current EU member states (with Malta and Cyprus) and the accession states of Central and Eastern Europe are reflected in their prison systems. The current EU states have run their prison systems for several decades within the Council of Europe framework, aiming at conformity with the European Convention on Human Rights (ECHR) and providing access to the European Court of Human Rights (ECtHR) for complainants. The eight accession states from Central and Eastern Europe come from a system with different features. In some the severity of imprisonment as well as the length of the sentence was decided by the sentencing court. Private visits of up to three days in apartments within the prison for family members are a feature of the system in some accession states, such as Estonia, Latvia and Lithuania. Since prisoners in most of these states are accommodated in large dormitories with a screened toilet, access to sanitation is not an issue as it is in some EU states, such as Greece, Ireland, Portugal and Scotland, where prisoners live in cells with no toilet.

Conformity with the ECHR

Wholesale and flagrant breaches of domestic and international law are not found in any of the states studied for this report. Prisoners do not routinely die of malnutrition, untreated illnesses or at the hands of guards or other prisoners. Prisoners are not regularly placed in dark cells as punishment nor held in fetters. Women prisoners are not consistently in danger from sexual abuse by guards or male prisoners, nor are children in prison normally at grave risk of abuse from adult prisoners. Yet the cases coming before the ECtHR, the reports of the CPT and the information from official, domestic and international monitoring bodies show that in many instances prison
systems in all 25 states are not in conformity with the law or the regional and international requirements and there are many prisoners not being treated with ‘humanity and respect for the inherent dignity of the human person’ (Article 10, United Nations International Covenant on Civil and Political Rights).

In recent years breaches of six of the Articles of the ECHR have been found. Examples of these violations include the case in 2002 against the UK Government where a violation of Article 2 (right to life) was found in the case of Edwards, a pre-trial prisoner kicked to death by his cell-mate. In 2001 Greece was found to be in violation of Article 3 (inhuman and degrading treatment) in the case of Peers who was held in a shared cell with no ventilation and no window and had to use the toilet in the presence of his cell-mate. The UK also violated Article 3 when it held in prison for 7 days Adele Price, a thalidomide victim with no arms or legs, in conditions not adapted in any way to her disabilities. Italy breached Article 3 in the case of Indelicato when the ECHR indicated that torture and inhuman and degrading treatment is never justified. In 2002 France was deemed to be in violation of Article 3 over the treatment of a prisoner ill with cancer (Mouisel). A case under Article 3 against Denmark (Rohde) for holding a pre-trial prisoner in solitary confinement for almost a year was declared a violation in 2003. The Netherlands has violated Article 3 (Van der Ven 2002, Lorsé 2003) as regards the restrictive conditions in its high security unit at Vught.

In 2000 the Czech Republic was found to be in violation of Article 5 (3) (right to liberty) when Cesky was held in pre-trial detention for over 4 years.

Article 6 sets out the right to a fair trial. The UK was in violation in the case of Ezeh and Connors where prisoners were punished by prison governors by adding days to their sentence to be served, thus reducing the remission they were entitled to expect. These disciplinary proceedings were deemed not to constitute a fair hearing. Austria has also been found in violation of Article 6 in two cases, Riepan 2000 and Lamanna 2001, because of flaws in the trial process and failing to uphold the presumption of innocence.

In the case of Messina 2000 Italy has been found in violation of Article 8 (right to family life) because of restrictions on correspondence and also of Article 13 (right to an effective remedy) because no opportunity to appeal against the imposition of severely restricted imprisonment was provided. France too has been found in violation of Article 8 (Demirtepe 1999) by opening a prisoner’s letters to his lawyer, judges and other prison officials, as was the Netherlands. In 2002 the ECtHR found that the Dutch authorities had violated, inter alia, Article 8 in respect of a prisoner’s correspondence with his lawyer and the European Commission on Human Rights (App. 37328/97).

During its visits the CPT has also from time to time described conditions that it found to be ‘inhuman and degrading’ and possibly, therefore, a breach of Article 3. For example, it so described the conditions in which some mentally ill prisoners were held in Ireland where they were kept in dirty padded cells, with a disposable chamber pot, a mattress and dirty blankets, some wearing only underwear or kept naked.

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All references for this section are to be found in the main report.
Other legal issues

A number of the above cases relate to the imposition of restrictive conditions on detainees deemed to be connected to terrorism or organised crime. In recent years some states have introduced special measures involving much higher security for groups of prisoners. In Italy Article 41-\textit{bis} of the law on penitentiary administration (Law 354/75) gives emergency powers to suspend the normal prison regime for certain prisoners. In its 2003 report the CPT raised serious reservations about the implementation of this legislation which the Italian Government did not accept. In the UK the Anti-Terrorism, Crime and Security Act 2001 required a derogation from Article 5 (right to liberty) so that foreign nationals suspected of terrorist activities could be detained indefinitely without charge or trial. The CPT investigated the conditions of these prisoners in 2002 and found them to be unduly restrictive. The UK government rejected these criticisms. The UN Committee against Torture in its response to the fourth periodic report submitted by the Spanish government in 2002 has expressed concern about the treatment of foreign prisoners and those held under close observation (Fichero de Internos en Especial Seguimiento), particularly in relation to being held incommunicado for five days following their arrest and the physical conditions of their imprisonment.

Solitary confinement

The CPT has stated (2\textsuperscript{nd} General Report 1992) that solitary confinement can amount to inhuman and degrading treatment and the length of time prisoners spend in such conditions should be as brief as possible. Solitary confinement is used in European prison systems to hold prisoners deemed to be dangerous or meriting especially high security, as a disciplinary punishment and sometimes to hold pre-trial prisoners during the period of investigation. In Italy for instance prisoners may be placed in conditions very similar to solitary confinement for up to six months for the sake of good order or security of the prison. They have the right to appeal against this decision.

The length of time that solitary confinement can be imposed as a disciplinary punishment varies from 45 days for adults in Estonia, 4 weeks in Austria and Denmark, to 9 days in Belgium. Different maxima apply to different groups. For example the maximum in the Czech Republic is 20 days for sentenced prisoners and 10 days for pre-trial detainees. The conditions in which the prisoners are held also vary. In some states visits and outdoor exercise are allowed (for example, in Austria and Finland). In the Czech Republic adults are not allowed reading matter. In Greece, Slovakia and Hungary they are not allowed visits. In Germany the right to exercise in the open air for pre-trial detainees in solitary confinement can be withdrawn for one week. In France there are minimum conditions for solitary confinement cells. In the Netherlands prisoners being punished by solitary confinement have a toilet, a mattress and a foam rubber block as a seat. In Latvia their bedding is taken away. In Spain prisoners are usually confined in their own cells.

The control of the use of solitary confinement also varies. In some states doctors must visit the prisoners every day. In Italy the medical officer has to certify in writing that the prisoner is fit to undergo solitary confinement. In Luxembourg the doctor must visit such prisoners at least twice a week and can suspend the punishment. Prisoners
may appeal against placement in solitary confinement. In Portugal periods of solitary confinement over 15 days must be authorised by the General Directorate. In Spain solitary confinement must be approved by the doctor at the outset and every day afterwards. More than 14 days must be approved by the supervisory judge. In the UK the doctor must approve solitary confinement.

The CPT has expressed concern about the conditions in which prisoners have been held in solitary confinement, for example, in France and Latvia. Solitary confinement of pre-trial detainees has also been a cause of concern for the CPT for several years. Following several critical CPT reports, changes in the law in Denmark have reduced the amount and length of pre-trial solitary confinement and the length now rarely exceeds three months.

Racism and xenophobia

The high proportion of incarcerated foreigners is a marked feature of some of the prison systems in Europe. In Latvia, Lithuania, Poland, Northern Ireland and Scotland the proportion is less than 2%. However it is over 30% in Austria, Estonia, Italy, Malta and the Netherlands and over 40% in Belgium and Cyprus. In Luxembourg it is 63.9%, out of a total of 352 prisoners. In January 2004 Austria reached agreement with the government of Romania to build and run a prison in Romania to house Romanians held in Austrian prisons who were either convicted or had admitted a crime.

Reasons for this disproportion are debatable. However, the Council of Europe report on racism and xenophobia in relation to imprisonment notes evidence of abuses of foreigners and ethnic minorities.

Prison population growth

Increases in the number of prisoners are a marked trend in European states. Prison populations are rising in all EU member states, and in Hungary, Poland and Slovakia. The Czech Republic, Latvia and Lithuania have significantly reduced their prison populations in recent years and in Cyprus, Estonia, Malta and Slovenia figures are currently static. Prison population levels are higher in most of the accession states than in current member states. Measured according to the number of prisoners per 100,000 of the national population (the prison population rate) the highest levels among the 25 countries are in Latvia (351), Estonia (330), Lithuania (260) and Poland (211) and the lowest levels are in Cyprus (50), Slovenia (55), Denmark (65) and Finland (68). Some states have had particularly high increases in recent years, for example, the Netherlands (an increase of 120% in ten years), England and Wales (61% in 12 years) and Spain (60% in 12 years). The rise in France over a similar period (11 years) is 15%.

Overcrowding
Prison overcrowding is not easy to measure since there is no accepted standard of space per prisoner. The impact of overcrowding also varies depending how long prisoners spend locked in their cells and how much access they have to other accommodation such as workshops and dayrooms. However, all states have some measure of the capacity of their prisons and the numbers they can hold without overcrowding. Using those measures, the prison population in most current EU member states is in excess of the official capacity; only in Ireland, Luxembourg, the Netherlands and Northern Ireland is the prison population within the official capacity. The rising numbers mean that these four prison administrations are in danger of exceeding their capacities during 2004. In four of the candidate countries (Cyprus, Hungary, Poland and Slovenia) prison populations exceed the official capacity. The other candidate countries do not report overcrowding but the amount of space provided for each prisoner is less than is allowed in EU member states. In fact, the Czech Republic and Slovenia (and perhaps Malta) are the only candidate countries where prisoners are receiving on average at least 4m² of space in their living accommodation, which is the minimum amount that the CPT considers satisfactory in multiple occupancy accommodation. At the end of 2003 the occupancy of prisons in Greece was 158.4% and in Hungary it was 147.7%. Figures for Italy for 2003 show that 37.3% of all prisoners were held in prisons which had exceeded the capacity judged to be ‘tolerable’.

Overcrowding has a seriously detrimental effect on prisoner’s living conditions. In Belgium some prisoners slept on the floor on mattresses. In France some cells measuring 13sq metres held four prisoners. In Ireland prisoners also slept on the floor and some were placed in padded cells in the hospital.

Health

There are many serious health problems in Europe’s prisons. In some EU states high rates of HIV are found. In some of the candidate countries of Central and Eastern Europe tuberculosis (TB) is prevalent and in Latvia and Lithuania multi-drug resistant TB is to be found. TB rates in prison are falling in Estonia and Latvia but rising in Hungary and Lithuania. HIV infection rates are increasing rapidly in some candidate countries. In Estonia for example there was one case in 2000 and now 10% of the prisoners are HIV+. In Lithuania a rapid increase of 58% occurred between 2000 and 2001. A serious outbreak in one prison in Lithuania in 2002 added 285 to the total of infected prisoners. In 2002 Portugal had 14% HIV+ prisoners and Spain 15%. Infection with hepatitis B and C is also spreading amongst prisoners. In Portugal 30% of prisoners had hepatitis B or C and in Spain 40% had hepatitis infection in 2001.

Illegal drug use is to be found in all prisons and poses public health dilemmas. Harm reduction measures such as the provision of disinfectants to sterilise needles, condoms to prevent disease transmission through sexual intercourse and exchange of used needles for clean ones are controversial. Most EU states provide some of these harm reduction facilities, but few provide them all. Many prisoners have mental health problems and suicide rates among prisoners are high in some states. The CPT has criticised both Germany and Ireland for their treatment of mentally ill prisoners.
The CPT has reported on many inadequacies and improper practices in the provision of health care. States have a duty of care and must protect the right to life. Therefore, they must provide the medical treatment needed. The CPT called on Latvia after its visit there to provide a consistent supply of anti-TB drugs. Medical personnel in prison also have a role in preventing ill-treatment by ensuring that all injuries sustained by prisoners are properly recorded and reported. The CPT criticised Ireland in 2002 for failing to record injuries properly. The CPT has asserted on many occasions the principles that testing for HIV should not be compulsory and that HIV+ prisoners should not be segregated from others. The WHO guidelines also advise against these practices. However, compulsory testing is still in place in Lithuania and Latvia and HIV+ prisoners are segregated from others in Cyprus, Greece and Hungary.

Close links between prison health and public health are advocated by the CPT and WHO. Both France and England and Wales have in the past decade instituted a new policy and moved control of the prison health services from the Prison Administration to the public health service. Such a change is also being developed in Italy and Estonia.

Contact with the outside world

Most prisoners in European prisons have access to the outside world through family visits, letters, telephone calls, television, radio and newspapers. However, the amount of such contact can vary considerably. One major difference is between those states that allow private family visits and other intimate or conjugal visits and those that do not. Prisoners in the candidate countries in Central and Eastern Europe are usually permitted private family visits lasting from one to three days. Prisoners in for example the Netherlands, Finland and Spain are also allowed private family visits or conjugal visits. In other states the possibility of family or intimate visits is not being considered.

The length and number of visits allowed also varies considerably. For example, in Hungary sentenced prisoners are entitled to a 30-minute visit once a month. In Slovenia a sentenced prisoner may have a visit of at least an hour twice a week. In England and Wales the entitlement is two visits every four weeks. In Portugal it is twice the level of England and Wales, that is not less than one hour every week. In Slovakia prisoners in the highest level of security are allowed a visit once every 6 weeks.

Pre-trial prisoners are more likely to have their visits restricted. In many states, for example, Austria, Latvia and Slovenia, visits to pre-trial prisoners have to be approved by a judge or prosecutor. In Belgium visits to pre-trial prisoners are closed, that is without direct contact. Visiting arrangements for pre-trial detainees have been of particular concern to the CPT. In Denmark, at the time of the 2002 visit the CPT found that police had the authority to impose restrictions such as only permitting supervised weekly visits of 30 minutes, withholding or monitoring of correspondence and prohibiting telephone calls. The police had received no instructions on the circumstances under which such restrictions could be applied. The CPT found the absence of procedural safeguards unacceptable.
Restrictions on contact with the outside world are imposed particularly on prisoners held in high security units or under special laws. The CPT report of 2003 on its visit to Italy raised serious reservations about the implementation of Article 41-bis which imposes severe limits on communication with those outside prison. The CPT also criticised the restrictions on visits by family and friends imposed by the UK government on the 13 foreign nationals detained without charge or trial under the Anti-Terrorism, Crime and Security Act 2001.

The CPT also criticised the UK’S restriction on these detainees’ access to a lawyer for one week or more. Spain has been similarly criticised by the United Nations Committee against Torture for preventing access to a lawyer for five days by prisoners held under close observation (Fichero de Internos en Especial Seguimiento). Apart from these exceptional cases, all states report that they allow unfettered access to lawyers for all prisoners.

**External oversight**

All states report some form of external oversight of their prison system. The arrangements are very diverse. Prisons in several countries (France, Italy, Spain and Portugal) are inspected by special supervisory judges (juges d’application des peines). The CPT has been critical of the effectiveness of these judges in Spain. In France a Senate Commission report in 2000 was critical of the quality of external supervision of French prisons. Another report to the French government recommended strengthening the structure of external control by establishing an office of prison inspectors outside the Ministry of Justice. Judicial authorities also exercise oversight of prisons in Belgium, Poland and Slovenia.

In the candidate countries from Central and Eastern Europe inspection is often carried out by the prosecuting authorities. In the Czech Republic the responsible body is the regional prosecutor’s office. In Hungary the office of the public prosecutor visits once a month. In Latvia, the Slovak Republic and Lithuania the prosecutors exercise oversight.

Ombudsmen also have a responsibility to oversee prisons or can if they wish visit prisons in Cyprus, Estonia, Finland, Hungary, Lithuania, Poland, Portugal, Slovenia, Spain and Sweden. In some states, for example, Germany, the Netherlands and the three parts of the United Kingdom local committees with varied oversight powers are attached to individual prisons. In France a local ‘Commission de Surveillance’ is attached to each prison and should make a report once a year. Full time specialised prison inspectors outside the prison administration are a feature of the system in all parts of the UK. The post of Inspector was established in Ireland in 2002.

Inspection by governmental and non-governmental human rights bodies is also a part of the system in some states. In Ireland and Lithuania the Human Rights Commission includes prisons in its remit. In the Czech Republic and Poland the non-governmental Helsinki Committees may visit prisons. Independent human rights monitors may visit prisons in Cyprus and Luxembourg. NGOs may visit prisons in Italy and Ireland for monitoring purposes.
The CPT has noted some problems with the appropriate oversight of prisons by an external body. After a visit to Greece the CPT called for more effective monitoring of prison conditions. It also suggested a review of the arrangements in Lithuania.

Work and activities

The international norms and standards make it clear that prisoners should be occupied for the main part of the day with work, education or other useful activities. Yet the reality is very different. Many prisoners throughout Europe spend much of the day locked in their cells with little to do. When prisoners are working the work they are doing is often routine work with little value in preparing them for life outside prison.

Reports suggest that the proportion of convicted prisoners who have work varies from 66% in Slovakia, 60% in Austria and around 50% in Belgium, Finland and Germany to 24% in Italy, 25% in Lithuania, 27% in Poland, 28% in Estonia and 30% in Latvia. A number of countries, for example Portugal, have reported that the percentage of prisoners in work is very low. In many countries the quality of work appears to be very poor, often amounting to little more than domestic cleaning. Work is even less available to pre-trial prisoners. In Denmark about 70% have work and in Greece 50%. Among the candidate countries from Central and Eastern Europe about 15% have work in Slovenia and 4% in Poland but there are few opportunities elsewhere.

One of the most frequently made criticisms by the CPT is of lack of activity and it recommends that prisoners should be out of their cells and engaged in useful activities for at least 8 hours a day. In Estonia the CPT found that pre-trial prisoners were only out of their cells for one hour a day. In Greece in 2001 they found that the vast majority of prisoners held in the four establishments visited spent the bulk of their day in complete idleness. Prisoners particularly resented this idleness since one day’s work counts as two days of the sentence served and thus working leads to earlier release.

The European Prison Rules require that education should be available to all prisoners who can benefit from it (Rule 66). Most prison systems provide some form of education. In Finland the administration reports that prisons organise educational studies in collaboration with external education institutes. Prisoners who complete courses receive their certificates from the external institutes so that it is not obvious that the studies have been carried out in prison. In France general education for prisoners is provided through the national education service as a result of an agreement between the Ministry of Justice and the Ministry of Education. In England and Wales responsibility for prisoner education has recently been transferred from a specialist prison education service to the Department for Education and Skills.

Women prisoners

In all the countries women form a very small proportion of those in prison. The world average is around 5%. In Europe the proportion of women varies considerably. Portugal has the highest proportion (8.1%) and Northern Ireland the lowest (2.1%)
Higher proportions than the average are found in Spain (7.9%), the Netherlands (6.8%), Finland and Luxembourg (6.1%) and Hungary and Latvia (6%). Countries with proportions below 3% are Lithuania (2.8%), Poland (2.7%), and Slovakia (2.5%). Women have been particularly affected by increasingly tough anti-drugs laws in some countries and this might explain the faster growth in the number of women prisoners.

Women face a range of problems when they are sent to prison. They often come themselves from backgrounds of abuse and violence. They are often the primary caregivers for children. The small numbers of women prisoners, never more than one in ten of all prisoners, present difficulties for prison administrations. Should women be concentrated in one place, and therefore probably distant from their homes? Or should they be held nearer their homes in small units, in which case the facilities they need might not be available. When dealing with women the international norms and guidelines are mainly concerned with the problems of pregnant prisoners and imprisoned mothers with small children, and the need to protect women from abuse by requiring men and women to be held separately at all times.

The CPT has made an attempt to interpret the international norms by setting out in its 10th General Report the standards it expects to see in the treatment of women in detention. For example, prisoners should only be searched by staff of the same gender and any search requiring prisoners to undress should be done out of sight of staff of the opposite gender. In principle women should be held separately from men. Babies should not be born in prison. Pregnant women should never be shackled or restrained to beds or other furniture.

In most European states women prisoners are detained either in separate prisons or in separate wings of male prisons. In one prison in Denmark male and female prisoners live in the same area. In this case the CPT recommended in 2002 that women should be confined in the same area as men only when they expressly agreed to the conditions and when the areas were supervised adequately. In most states mothers may keep their babies with them up to a certain age. In Poland pregnant or breast-feeding women cannot be punished by placement in an isolation cell and children can stay until they reach the age of three. In Germany there are eight women's prisons with mother and child sections. Some states (for example Latvia and Lithuania) require more space to be allocated for each female prisoner than for each male. In some of the candidate countries of Central and Eastern Europe the maximum time women may be held in solitary confinement is half the length allowed for men.

**Juveniles in detention**

All European states are signatories to the UN Convention on the Rights of the Child which defines a child as anyone under the age of 18 (unless national legislation deems otherwise). The Convention sets out how children in trouble with the law should be treated. They should not be deprived of their liberty unless there is absolutely no other option and then only for the shortest possible time. Children deprived of their liberty should be treated with humanity and respect and in a manner appropriate for their age. They should be separated from adults unless it is considered to be not in the child's best interest.
The age of criminal responsibility is the age at which a child can be held criminally responsible for an action and if found guilty can be punished under criminal law. Children under that age who commit anti-social acts are dealt with under welfare or social care procedures. The age of criminal responsibility varies greatly within Europe from eight years in Scotland to 16 years in Belgium, Luxembourg and Portugal. The age of criminal responsibility was raised from seven to 12 in Ireland in 2001.

There are large differences in the numbers of juveniles imprisoned in Europe. For example, in a number of countries fewer than 1% of the prison population is aged under 18. Denmark has 0.3% (12 juveniles). Finland has 0.5% (17 juveniles). Hungary has 0.9% (161 juveniles). The Netherlands has 0.8% (101 juveniles of whom 90 were illegal aliens). Poland has 0.7% as has Slovakia (55 juveniles). Spain has 0.3% and both Sweden and Italy have no juvenile prisoners at all. In other states numbers and proportions are much larger. In Cyprus 7% of the prisoners are under 18 years of age, in Greece, 6.9%, in Northern Ireland 5.7%. In absolute numbers England and Wales has the most juvenile prisoners with 2498 in January 2004.

These variations reflect differences in policy towards juvenile offenders. Although commentators report a hardening of attitudes towards young people who commit crime in recent years, in most EU countries educational and reformative measures have been predominant. In Germany for example juveniles aged 14-17 years are dealt with under the Youth Court Law, which makes it clear that the exclusive aim is rehabilitation. In France the law applying to juveniles emphasises measures of protection, help, supervision and education. Educational measures take priority over penal measures. In Belgium and Scotland the principle of the welfare of the child is the prime determinant of the approach to juvenile delinquency. In Scotland the Children’s Hearing System has been in place since 1968 and ensures that when measures need to be applied the welfare of the child is the main factor to be considered. In England and Wales penal measures are applied to children from the age of 10 years. From 12 a child may be held in a secure establishment before his or her trial. From 12 a child may be given a 'detention and training order' which can be for up to 2 years. The treatment of juveniles in detention in England and Wales has been criticised by the United Nations Committee on the Rights of the Child which expressed concern about the placement of children in juvenile detention and in solitary confinement in prisons and about the use of restraints in prisons.

In the candidate countries of Central and Eastern Europe reforms in the treatment of juveniles have been introduced. However, solitary confinement as a punishment is applied to juveniles, the maximum being 5 days in the Czech Republic, Latvia, Lithuania and Slovakia (though in Slovakia the punishment can only be applied for part of the day) and 20 days in Estonia. Juveniles in Latvia are held in overcrowded pre-trial institutions.

Juveniles are very vulnerable to abuse and it is therefore an international requirement that they should be held separately from adults. In a recommendation on its third periodic report on Luxembourg (15 May 2002) the United Nations Committee against Torture recommended that Luxembourg refrain from placing minors in adult prisons for disciplinary purposes.
INTRODUCTION

This report deals with conditions of imprisonment in the current 15 member States of the European Union and the ten candidate (accession) countries. It presents the basic facts of imprisonment in each country, based on information provided by official sources within the countries, by national and international non-governmental organisations (NGOs) and by other monitoring bodies. In so far as is possible it also examines the national legislation in respect of imprisonment, its conformity with the international human rights framework and the extent of its implementation in practice, especially by reference to the reports of the Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and the judgements of domestic courts and the European Court of Human Rights (ECtHR).

When assessing conditions of imprisonment, it is important to use a set of international comparators which are objective and are not based on the prevailing standards of one country. In the course of the second half of the 20th century the Council of Europe developed a series of human rights standards which it expected member states to implement. The states of Central and Eastern Europe, which have joined the Council of Europe over the last 15 or so years, are expected to follow these standards. The European standards reflect the comprehensive set of international human rights standards developed by the United Nations, which provide a framework within which to judge conditions of imprisonment in every country3. These standards imply more than managerial efficiency. It is also essential that imprisonment should operate within an ethical context of humanity and decency. This ethical imperative follows a long-standing European tradition that goes back to the days of institutions such as the Rasphuis in Amsterdam and the work of the prison reformer, John Howard.

The primary human rights standard in respect of imprisonment is Article 10 of the International Covenant on Civil and Political Rights (ICCPR) which states that: ‘All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person’.

The framework of human rights standards in Europe as regards the treatment of persons deprived of their liberty derives from this standard. The framework includes the Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocol No. 11 (ECHR, 1950), the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment (1989) and the European Prison Rules (1987)4. The case law now being built up by the ECtHR helps us to understand the legal framework within which prisons must operate. The reports of the CPT indicate how the requirements of Article 10 of the ICCPR are to be interpreted and implemented and how the requirement of Article 3 of the ECHR (‘No one shall be subjected to torture or to inhuman or degrading treatment

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4 Recommendation No. R (87) 3 Of The Committee Of Ministers To Member States On The European Prison Rules (Adopted by the Committee of Ministers on 12 February 1987 at the 404th meeting of the Ministers' Deputies).
or punishment’) is to be ensured. The European Prison Rules specify what this means in more detail and the relevant recommendations of the Council of Ministers constitute a set of guidelines on specific topical issues.

The following report shows that the 25 countries it covers can be divided broadly into two groups. The first includes the 15 existing member states plus Cyprus and Malta and the second the accession states of Central and Eastern Europe. In very general terms, in many countries in the former group conditions of imprisonment are deteriorating and the number of people in prison is rising. Conditions in many countries in the second group are showing signs of improvement, even though in many cases this is from a very low starting point.
PART 1: OVERVIEW AND ANALYSIS

A number of broad themes emerge from an analysis of the facts contained in the second part of this report. They can be summarised as follows.

The legal framework

In general, prison systems in European states operate within the law. In contrast to other regions of the world, flagrant abuses of the minimum legal requirements are relatively uncommon. This suggests that the European human rights machinery is generally effective in preventing many of the worst abuses that occur in prisons in some other parts of the world. In comparatively few cases have states been found to be in breach of the ECHR. A number of exceptions, such as the ECtHR cases of Peers\(^5\), Indelicato\(^6\), Edwards\(^7\) and others, are described in the country reports.

There is also a UK case affecting the right to a fair trial (Article 6). In the UK prison governors had the right to punish prisoners for a breach of prison discipline by delaying the prisoner’s release date for up to 42 additional days, thus reducing the remission they were entitled to, provided this did not take the period of imprisonment beyond the length of the original sentence. When the ECHR was incorporated into UK domestic legislation in 2001, the Scottish Prison Service acted proactively to remove the right of prison governors to impose this punishment. The Home Office in England and Wales did not do so and, following an application brought by two prisoners the ECtHR found this punishment to be in violation of the ECHR, Article 6\(^8\).

In a number of countries there are some areas where the law is inadequate. Following its visit to Denmark in 2002 the CPT recommended that the Administration of Justice Act should be amended in respect of the rules affecting solitary confinement\(^9\). It made similar recommendations in respect of Sweden in 1998 and 2003\(^10\).

There are also worrying indications from a number of countries that governmental reaction to the threat of terrorism is leading to a weakening of legal protections. In Italy, for example, there are serious concerns about Article 41-bis of the law on penitentiary administration (Law 354/75). Following concerns raised in 1995, the

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\(^5\) Case of Peers v. Greece: Application number 28524/95.
\(^6\) Case of Indelicato v. Italy: Application number 31143/96.
\(^7\) Case of Paul and Audrey Edwards v. the United Kingdom: Application number 46477/99.
\(^8\) Case of Ezeh and Connors v. the United Kingdom: Application numbers 39665/98 and 40086/98 respectively.
\(^10\) CPT/Inf (99) 4 Report to the Swedish Government on the visit to Sweden carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 15 to 25 February 1998. 3 July 1998 and Preliminary observations made by the delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) which visited Sweden from 27 January to 5 February 2003. Strasbourg, 12 June 2003.
CPT report of 2003\textsuperscript{11} raised serious reservations about the implementation of this regulation, which the Italian government rebutted\textsuperscript{12} Article 41\textsuperscript{-bis} gives emergency powers to suspend the normal prison regime for certain prisoners and to impose strict security with severe limits on association with other prisoners and communication with those outside prison. Initially these powers were temporary and had to be reconfirmed by the Senate. In December 2002 the Article was amended to make the provision permanent and to extend it to apply to those suspected or convicted of terrorist crimes. Previously it had only applied to those involved in organised crime, that is, the Mafia. Opposition politicians have been strongly critical of this legislation. Reference is made in the country report to ECtHR rulings against the application of this legislation.

In the UK along with the Anti-Terrorism, Crime and Security Act (2001) the government introduced an Order derogating from Article 5 of the ECHR in order to allow the Home Secretary to certify and detain foreign nationals suspected of involvement in international terrorism. A Privy Counsellor Review of the Act (carried out by senior politicians of all parties) strongly recommended that these powers of indefinite detention should be replaced as a matter of urgency by new legislation, which should not require derogation from the ECHR\textsuperscript{13}. The government rejected this recommendation\textsuperscript{14}. Thirteen non-UK nationals were detained under this Order\textsuperscript{15}. In February 2002 the CPT visited the UK to investigate the conditions in which these detainees were being held. It reported initial restriction of up to a week or more for access to a lawyer, verbal abuse by staff, the absence of any activity, less than one hour a day out of cell and restrictions on visits by family and friends\textsuperscript{16}. In its response the UK government rejected these criticisms\textsuperscript{17}.

In Spain there are major concerns with regard to prisoners held under a special security regime known as Fichero de Internos de Especial Seguimiento (FIES). This regime represents the highest level of security and, by its nature, appears to contradict the primary aim of rehabilitation as set out in prison legislation. In the current political climate in Spain the regime is applied particularly to Basque separatists.

\textsuperscript{16} CPT/Inf (2003) 18 Report to the Government of the United Kingdom on the visit to the United Kingdom carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 17 to 21 February 2002. Strasbourg, 12 February 2003.
\textsuperscript{17} CPT/Inf (2003) 19 Response of the United Kingdom Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to the United Kingdom from 17 to 21 February 2002. Strasbourg, 12 February 2003.
Reference is made in the country report to the response from the UN Committee against Torture to the Spanish government's fourth periodic report to the Committee.\textsuperscript{18}

It should be acknowledged that the influence of the ECHR and the existence of ombudsmen in one form or another mean that most European countries have mechanisms for enabling prisoners to make complaints and to seek remedies for administrative mistreatment. In addition, the CPT is unique in the world in being a regional inspection body with unfettered access to prisons in all the countries under review. It is true that it visits each country relatively infrequently but its reports, which are often quite critical, are published along with the response from each government. This often assists national NGOs and other agencies to pursue specific issues.

The analysis in the second part of this report indicates that, with some exceptions, the major areas of concern about prison conditions in the countries reviewed relate not to the law but to basic defects in prison conditions and treatment. These sometimes amount to inhuman and degrading treatment, largely due to overcrowding, health problems and a failure in some countries to acknowledge the basic humanity of those deprived of their liberty, often expressed in institutional racism and xenophobia.

While there is considerable room for improvement in the legal framework in some countries, the main concern in Europe is not about the legal basis of imprisonment but rather concerns the fact that the implementation of law does not satisfy the international or European human rights requirements in a number of areas.

**Overcrowding and prison population levels**

‘Prison overcrowding and prison population growth represent a major challenge to prison administrations and the criminal justice system as a whole, both in terms of human rights and the efficient management of penal institutions.’\textsuperscript{19}

Prison populations are rising in all current EU member states. The same is true in Hungary, Poland and Slovakia. However, the Czech Republic, Latvia and Lithuania have managed to bring about significant reductions in their prison populations in recent years. In Cyprus, Estonia, Malta and Slovenia figures are currently static. Prison population levels are higher in most of the accession states than in current member states. Measured according to the number of prisoners per 100,000 of the national population (the prison population rate) the highest levels among the 25 countries are in Latvia (351), Estonia (330), Lithuania (260) and Poland (211) and the lowest levels are in Cyprus (50), Slovenia (55), Denmark (65) and Finland (68). It should be noted that, although the levels in Latvia and Estonia are more than three times the average rate in current member states, the rate in the USA (701) is seven


\textsuperscript{19} Council of Europe Committee of Ministers Recommendation No. R (99) 22 of The Committee of Ministers to Member States Concerning Prison Overcrowding and Prison Population Inflation (Adopted by the Committee of Ministers on 30 September 1999 at the 68\textsuperscript{th} meeting of the Ministers' Deputies).
times that average rate. Table 1 (below) shows the prison population rates in each country.

Overcrowding should be judged not only with reference to the official capacity of the institutions but also with reference to the amount of space allowed per prisoner in the living accommodation.

Table 1
Prison population rates (per 100,000 of the national population) in current EU member states and accession states

<table>
<thead>
<tr>
<th>Current member states</th>
<th>Prison population rate</th>
<th>Accession states</th>
<th>Prison population rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>97</td>
<td>Cyprus</td>
<td>50</td>
</tr>
<tr>
<td>Belgium</td>
<td>84</td>
<td>Czech Republic</td>
<td>170</td>
</tr>
<tr>
<td>Denmark</td>
<td>65</td>
<td>Estonia</td>
<td>330</td>
</tr>
<tr>
<td>Finland</td>
<td>68</td>
<td>Hungary</td>
<td>165</td>
</tr>
<tr>
<td>France</td>
<td>93</td>
<td>Latvia</td>
<td>351</td>
</tr>
<tr>
<td>Germany</td>
<td>98</td>
<td>Lithuania</td>
<td>260</td>
</tr>
<tr>
<td>Greece</td>
<td>81</td>
<td>Malta</td>
<td>73</td>
</tr>
<tr>
<td>Ireland</td>
<td>85</td>
<td>Poland</td>
<td>211</td>
</tr>
<tr>
<td>Italy</td>
<td>100</td>
<td>Slovakia</td>
<td>164</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>111</td>
<td>Slovenia</td>
<td>55</td>
</tr>
<tr>
<td>Netherlands</td>
<td>100</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Portugal</td>
<td>134</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Spain</td>
<td>138</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sweden</td>
<td>72</td>
<td></td>
<td></td>
</tr>
<tr>
<td>United Kingdom (overall)</td>
<td>136</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- England and Wales</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Northern</td>
<td>67</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Scotland</td>
<td>125</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


The prison population in most of the current EU member states is in excess of the official capacity; only in Ireland, Luxembourg, the Netherlands and the separate Northern Ireland prison service in the United Kingdom is the prison population within the official capacity. However, the rising numbers mean that these four prison administrations too are in danger of exceeding their capacities during 2004.

In only four of the accession states (Cyprus, Hungary, Poland and Slovenia) are prison populations in excess of the official capacity. It should not be concluded from this, however, that overcrowding is generally less severe in the accession states. In fact the reverse is true. This is because the amount of space allowed per prisoner in most of the accession states is less than that allowed in the current member states.

The Czech Republic and Slovenia (and perhaps Malta) are the only accession states where prisoners are receiving, on average, at least 4m² of space in their living accommodation, which is the minimum amount that the CPT considers satisfactory in
multiple occupancy accommodation. However, on the basis of national regulations concerning space allowance taken together with the actual occupancy rate, it can be calculated that such an amount (i.e. at least 4m²) is being received on average by prisoners in Belgium, Finland, the Netherlands and Sweden, probably also in Denmark and perhaps also in some of the other current EU member states.

Thus, in terms of the official capacity of the institutions, occupancy levels are worse in the current member states. However, in terms of the severity of overcrowding, measured by the average amount of space that a prisoner has in the living accommodation, the situation is worse in most of the accession states. (In every country all prisoners have their own beds).

**Pre-trial detention**

‘Being presumed innocent until proved guilty, no person charged with an offence shall be placed in custody pending trial unless the circumstances make it strictly necessary. Custody pending trial shall therefore be regarded as an exceptional measure…’

In most of the EU member and accession states persons in pre-trial detention constitute between 20 and 35% of the prison population. The lowest percentage (14%) is in Lithuania and the highest (44%) in the Netherlands. There is no noticeable difference, in respect of this factor, between current member states and accession states.

However, it has already been noted that overall prison population levels are higher in seven of the ten accession states than in current member states. Thus the levels of pre-trial detention also tend to be higher in these states. Indeed, the countries with the highest proportion of their national population in pre-trial detention are Latvia, Estonia, Slovakia and Poland; those with the lowest proportion are Cyprus, Finland, Slovenia and Ireland. The level of pre-trial detention in Latvia is especially high: the proportion of the population of Latvia in pre-trial detention is almost three times the level in any of the current member states. Table 2 (below) shows the pre-trial population rates in each country.

The international instruments indicate that pre-trial prisoners should be ‘treated without restrictions other than those necessary for the penal procedure and the security of the institution’. Thus their conditions of detention should be at least as good as those for convicted prisoners. Unfortunately in many European countries ‘[…] their conditions are the most overcrowded; they have the worst accommodation and are given least access to the facilities of the prison’. The following paragraphs refer to the current situation with regard to the separation of pre-trial detainees from

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20 Council of Europe Committee of Ministers Recommendation No. R (80) 11 of The Committee Of Ministers to Member States Concerning Custody Pending Trial. (Adopted by the Committee of Ministers on 27 June 1980 at the 321st meeting of the Ministers' Deputies).

21 Council of Europe Committee of Ministers Recommendation No. R (87) 3 of The Committee of Ministers to Member States on The European Prison Rules (Adopted by the Committee of Ministers on 12 February 1987 at the 404th meeting of the Ministers' Deputies), Rule 91.

other prisoners, the opportunity for them to wear their own clothes, the arrangements for visiting, the opportunity to undertake work in prison, regime activities including the amount of time they spend out of their cells/rooms and the opportunity they have for exercise.

Table 2
Pre-trial population rates (per 100,000 of the national population) in current EU member states and accession states

<table>
<thead>
<tr>
<th>Current member states</th>
<th>Pre-trial population rate</th>
<th>Accession states</th>
<th>Pre-trial population rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>26</td>
<td>Cyprus</td>
<td>10</td>
</tr>
<tr>
<td>Belgium</td>
<td>31</td>
<td>Czech Republic</td>
<td>33</td>
</tr>
<tr>
<td>Denmark</td>
<td>19</td>
<td>Estonia</td>
<td>95</td>
</tr>
<tr>
<td>Finland</td>
<td>12</td>
<td>Hungary</td>
<td>37</td>
</tr>
<tr>
<td>France</td>
<td>36</td>
<td>Latvia</td>
<td>136</td>
</tr>
<tr>
<td>Germany</td>
<td>20</td>
<td>Lithuania</td>
<td>37</td>
</tr>
<tr>
<td>Greece</td>
<td>23</td>
<td>Malta</td>
<td>17</td>
</tr>
<tr>
<td>Ireland</td>
<td>14</td>
<td>Poland</td>
<td>53</td>
</tr>
<tr>
<td>Italy</td>
<td>21</td>
<td>Slovakia</td>
<td>54</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>48</td>
<td>Slovenia</td>
<td>13</td>
</tr>
<tr>
<td>Netherlands</td>
<td>44</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Portugal</td>
<td>39</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Spain</td>
<td>31</td>
<td></td>
<td></td>
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<tr>
<td>Sweden</td>
<td>19</td>
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<td></td>
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<tr>
<td>United Kingdom (overall)</td>
<td>24</td>
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<tr>
<td>- Scotland</td>
<td>19</td>
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</tbody>
</table>


The European Prison Rules state that ‘in principle untried prisoners shall be detained separately from convicted prisoners unless they consent to being accommodated or involved together in organised activities beneficial to them’ (Rule 11(2)). Most current EU member states and all the accession countries do not allow pre-trial prisoners to be accommodated with sentenced prisoners, but Denmark and Luxembourg allow this if the prisoners consent. (It is understood, nonetheless, that in conditions of overcrowding separation is not ensured in every prison.) On the other hand, most countries (including Denmark, France, Germany, Greece, Italy, Luxembourg, Sweden and the United Kingdom) sometimes allow pre-trial prisoners to come into contact with sentenced prisoners during work, education, leisure activities and religious worship; however, the Czech Republic, Estonia, Latvia and Slovakia report that they never allow such contact.

In principle, pre-trial prisoners in all 25 countries are allowed to wear their own clothes, something which many countries do not allow sentenced prisoners to do. There is frequently the proviso that the clothes must be suitable and must not pose a risk to health, security, decency or good order; thus in some prisons pre-trial prisoners
may not wear their own clothes if they cannot arrange for them to be washed and changed regularly.

In most countries visits to pre-trial prisoners may be restricted by the investigating judge, the court or the prosecutor. However, in current member states and in Malta and Slovenia they are generally allowed visits at least once a month except in Lithuania where the norm is less than once a month.

The availability of work for pre-trial prisoners is very varied. In Denmark some 70% have work and in Greece 50%. In the accession states from Central Europe about 15% have work in Slovenia and 4% in Poland but there are few opportunities elsewhere.

Regime activities for pre-trial prisoners are limited in many countries. The CPT recommends at least eight hours a day out of cells engaged in purposeful activities of a varied nature but practice is invariably far removed from this. Italy, Poland and Slovenia are among the few countries that enable pre-trial prisoners to be involved in regime activities for several hours a day.

In accordance with Rule 86 of the EPR pre-trial prisoners in all 25 countries are generally allowed at least one hour of walking or suitable exercise in the open air daily, although the CPT has reported a number of instances of individual institutions in various countries falling short of this requirement. In some countries, for example Greece and Slovenia, it is standard practice to allow at least two hours of exercise daily.

Sentence lengths and life imprisonment

In the course of their meeting in Moscow in 2001 European Ministers of Justice noted that the overall increase in the number of prisoners in many European countries is due in part to the increasing number and length of long-term prison sentences. There are various possible explanations for this trend, including increasing concern about general levels of crime as well as a reaction to specific crimes, such as those of a sexual nature. In England and Wales, for example, the law has recently been changed so that in some cases a sentence of life imprisonment will now mean actual detention for natural life.

On accession to the Council of Europe states are required to impose an immediate moratorium on the death penalty and to abolish this as a punishment within two years. As a result, the death penalty is no longer used in any of the states covered in this report. In most of the new accession states it has been replaced by the sentence of life imprisonment. In the legal traditions of Western Europe the courts have been responsible for determining the period of imprisonment while the conditions of detention, including the level of security, have been determined by the prison

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23 24th Conference of European Ministers of Justice 4-5 October 2001, Moscow (Russian Federation) Resolution No 2 on the implementation of long-term sentences. Available online at http://www.coe.int/T/E/Legal_Affairs/Legal_co-operation/Conferences_and_high-level_meetings/European_Ministers_of_Justice/2001(Moscow)Resolution2.asp

administration. In countries of the former Soviet Union, courts also determined the strictness of the regime in which individual prisoners were to be held according to the nature of the offence and whether the person had previous convictions. This tradition has continued in part in respect of the treatment of the new category of prisoners sentenced to life imprisonment. Current requirements are that they should spend up to ten years in isolation, or at best mixing only with a small number of similar prisoners. They have very limited access to activities and contact with the outside world is minimal. These arrangements were a matter of concern for European Ministers of Justice who, when they met in 2001, noted the need to provide decent detention conditions for those serving long-term and life sentences, without sacrificing security, order and discipline in penal institutions. A Council of Europe committee took up this matter, defining a long-term prisoner as one serving a sentence of five years or more. It concluded that the aims of managing this group of prisoners should be to ensure that the prisons in which they are held are safe and secure, to counteract the damaging effects of life and long-term imprisonment and to increase the possibility of such prisoners being successfully resettled into society.

Health care

Health care is a major concern in European prisons and in many states deficiencies in the provision of health care have been noted (see part 2). In 1998 the Committee of Ministers of the Council of Europe agreed R (98) 7 which deals with prison health care. It stresses the requirement that prison health care should be of a standard equivalent to that in the outside community. It calls for the same ethical principles to guide practice in prison as practice outside. The health needs of the prisoner should be the primary concern of the medical staff who should be independent and base their decisions on medical criteria only. Good practice requires that prisoners should have access to a doctor whenever necessary, have confidentiality respected and give informed consent for all treatments and sample-taking (except when the law states otherwise).

During its visits the CPT pays particular attention to the provision of medical services and evaluates these against the international human rights standards on prison health care. The CPT has stressed that since the state takes away liberty the state has a duty of care in line with Article 2 of the ECHR (the right to life). In its Eleventh General Report it noted:

‘The CPT is aware that in periods of economic difficulties […] sacrifices have to be made, including in penitentiary establishments. However, regardless of the difficulties faced at any given time, the act of depriving a person of his liberty

25 24th Conference of European Ministers of Justice 4-5 October 2001, Moscow (Russian Federation) Conclusions Report by the Secretary General of the Council of Europe. Available online at <www.coe.int/T/E/Legal_Affairs/Legal_co-operation/Conferences_and_high-level_meetings/European_Ministers_of_Justice/2001(Moscow)Conclusions.asp>


27 Council of Europe Committee of Ministers Recommendation No. R (98) 7 of The Committee of Ministers to Member States concerning the Ethical and Organisational Aspects of Health Care In Prison (Adopted by the Committee of Ministers on 8 April 1998, at the 627th meeting of the Ministers’ Deputies).
always entails a duty of care which calls for effective methods of prevention, screening, and treatment. Compliance with this duty by public authorities is all the more important when it is a question of care required to treat life-threatening diseases.

In a report on a visit to Latvia the CPT noted the inadequate supply of anti-tuberculosis drugs (sporadic supply of these drugs can lead to deadly multi-drug resistant strains) and invoked this principle noting that the prison authorities had a clear obligation to provide a consistent supply of drugs.

Medical staff have important roles relating to the human rights obligations of states to prisoners. They may play a part in preventing torture by ensuring that when prisoners arrive from police custody with injuries or sustain injuries in prison the injuries are fully recorded and reported to the appropriate authorities. Ireland was criticised by the CPT in 2002 for failing to properly record injuries displayed by prisoners on their arrival. Medical staff also supervise prisoners in solitary confinement to ensure their health is not jeopardised and in some jurisdictions they certify that prisoners are fit to undergo punishment.

Prisons are places where ill health is concentrated. People in prison come from the most marginalised groups in society and they bring with them into prison untreated physical and mental conditions, addictions and behaviours that put health at risk. Illegal drug use is a problematic issue for prison management because the measures required to prevent the entry of drugs into prisons conflict with other requirements. For example, the requirement to maintain family relationships conflicts with measures to prevent drug smuggling such as putting a grille between the prisoner and the family members when they visit. Ensuring prisoners are treated with respect for their dignity may be incompatible with requiring them to urinate in front of prison staff to ensure that samples are not falsified. Problem drug use also imposes great burdens on the health care services with many prisoners arriving in prison in need of detoxification. Prisons can also be places where drug use spreads. It is estimated that the percentage of prisoners who first started to inject drugs whilst in prison ranges from 7% to 24%.

Conditions in prisons can also be unhealthy with overcrowding, inadequate ventilation, lighting and heating.

The health problems in the accession countries differ somewhat from those in the EU countries. Tuberculosis is a major problem in the Baltic States, although interventions

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from the Council of Baltic Sea States (CBSS)\textsuperscript{33}, the EU and other donors has brought the problem under control recently in some states. In Estonia and Latvia the TB rates are falling though they are rising in Hungary and Lithuania. Multi-drug resistant TB (MDRTB) is a more severe form of TB that can result from inconsistent prescribing practices or can be transmitted from an infected person. An expert mission from the CBSS visited Lithuania in 2003 and found a serious problem of MDRTB in the prisons\textsuperscript{34}.

The proportion of HIV infected prisoners in some accession countries is growing rapidly. The situation is Estonia is a case in point. The first HIV infected prisoner in Estonian prisons was diagnosed in 2000. Since then the number has increased by between four and five new cases a week. About 10% of all the prisoners are HIV positive including 34 women and 34 juveniles. All of them are intravenous drug-users. All the known cases were diagnosed on admission to prison apart from two known cases of transmission in prison, one through using shared tattooing equipment and one caused by sexual intercourse\textsuperscript{35}. In Latvia the number of HIV positive prisoners increased by 58% between 2000 and 2001. The most rapid increase occurred at Alytus Prison in Lithuania where 229 prisoners tested positive in May 2002. When tests were done in July, 56 more prisoners were diagnosed of whom 44 had tested negative in May. This increase led to the dismissal of the prison director and other officials. The proportion is also high in Portugal and Spain, where 14% and 15% of prisoners respectively were HIV positive in 2002.

Hepatitis B and C are also a major problem. In Portugal 30% of prisoners had hepatitis B or C in 2002. Harm reduction measures in Spain have led to a small reduction in hepatitis infections from 46% to 40% between 1998 and 2001.

World Health Organisation (WHO) guidelines\textsuperscript{36}, the Council of Europe Recommendation\textsuperscript{37} and the CPT\textsuperscript{38} all make it absolutely clear that testing for HIV should not be compulsory and that HIV positive prisoners should not be segregated unless they are ill and in need of specialised medical care. Despite this, routine compulsory testing takes place in Lithuania and in 2000 the CPT reported that HIV infected prisoners were segregated in Cyprus (see part 2) as has also been reported with regard to Greece and Hungary.

\textsuperscript{33} Information concerning the CBSS can be found online at <http://www.baltichealth.org/>


\textsuperscript{37} Council of Europe Committee of Ministers R (98) 7 of The Committee Of Ministers To Member States Concerning the Ethical and Organisational Aspects of Health Care in Prison (Adopted by the Committee of Ministers on 8 April 1998, at the 627th meeting of the Ministers' Deputies).

Public health attempts to contain the spread of blood-borne diseases such as HIV/AIDS and hepatitis B and C often come into conflict with prison security requirements and present prison administrations with a dilemma. To prevent the spread of these illnesses, public health experts advocate the provision of condoms to prevent transmission through sexual activity, of disinfectants to aid the cleaning of shared needles and of clean needles in exchange for used ones.

These measures are very controversial in prisons since they require prison administrations to accept that sexual activity and intravenous drug use take place. According to the Lisbon-based European Monitoring Centre on Drugs and Drug Abuse, in 2002 detoxification was provided to some or all prisoners in 12 of the EU states. In Greece and Italy detoxification is not provided. Substitution treatment, mainly methadone provision, is available in all countries except Greece and Sweden. Disinfectants are not provided in Greece, Ireland, Italy, Luxembourg and Sweden. Condoms are not available in Greece, Ireland or Italy. Data for Germany is not available on all of these measures, but needle exchange is available in some prisons in Germany as in Spain 39.

In the context of this dilemma it is worth noting that in its recent declaration on prison health WHO suggests that ‘harm reduction becomes the guiding principle of policy on the prevention of HIV/AIDS and hepatitis transmission in penitentiary systems’ 40.

Prisoner suicides are a cause for concern in many countries. Comparative suicide rates for most European states are not available but data is available for France (120 suicides in 2003 giving a rate of 22.8 per 100,000 41), Portugal (19 suicides in 2002) and England and Wales (94 in 2003). Dealing with mentally ill or suicidal prisoners often occasions comment by the CPT and the Committee has severely criticised the treatment of a suicidal prisoner in Germany whose hands and feet were strapped to a bed for 36 hours 42. The CPT argues that people who are mentally ill should be in a hospital, rather than a prison, and advocates close links between prison and public health services to that end.

The WHO and the Council of Europe argue for close links between prison and public health services and it is worth noting in this context that France in 1994 and England and Wales in 1998 started a process of placing the management of prison health services under the public health services 43. Early results suggest that this transfer of

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40 Declaration made by the annual conference of the WHO European Network for Prison and Health held in Moscow, 23-25 October 2003.
42 CPT/Inf (2003) 20 Report to the German Government on the visit to Germany carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 3 to 15 December 2000. Strasbourg, 12 March 2003.
responsibility has improved the quality of health care given to prisoners\textsuperscript{44}. A similar change is reportedly taking place in Estonia (see Part 2).

**Activities and regimes**

‘The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation.’

International Covenant on Civil and Political Rights, Article 10(3).

The international standards, including the EPRs, require that prisons should not be places of boredom and monotony. There is an expectation that prisoners will be able to use their time in prison positively, to improve their education, to learn new personal and work skills and to prepare themselves for release. The reality in many prison systems is quite different. The previous section on pre-trial detention describes the limited opportunities available for that group of prisoners. For convicted prisoners the situation is usually better but still very uneven. Even where there are opportunities for work or other activities this frequently is of low quality with little rehabilitative value.

The reported proportion of convicted prisoners who have work varies from a high of 66% in Slovakia, 60% in Austria and around 50% in Belgium, Finland and Germany to a low of 24% in Italy, 25% in Lithuania, 27% in Poland, 28% in Estonia and 30% in Latvia. A number of countries, such as Portugal, merely reported that the percentage of prisoners in work is very low. In many countries the quality of work appears to be very poor, often amounting to little more than domestic cleaning and maintenance and with little evidence that prisoners are being equipped with skills which will be useful to them on release.

Most prison systems provide some form of education for limited number of prisoners. In Finland, for example, the administration reports that prisons organise educational studies in collaboration with external education institutes. Prisoners who complete courses receive their certificates from the external institutes so that it is not obvious that the studies have been carried out in prison. In France general education for prisoners is provided through the national education service as a result of an agreement between the Ministry of Justice and the Ministry of Education. In England and Wales responsibility for prisoner education has recently been transferred to the Department for Education and Skills.

In Finland the CPT noted that in some prisons a great number of prisoners spent up to 23 hours per day locked in their cells with little to occupy their time\textsuperscript{45}. They reported


\textsuperscript{45} CPT/Inf (2000) Follow-up report of the Finnish Government in response to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Finland from 7 to 17 June 1998. Strasbourg, 7 September 2000.
on a similar situation in Greece where the vast majority of prisoners seen by the committee spent the bulk of their day in complete idleness.\footnote{CPT/Inf (2001) 18 (Part 2) Report to the Government of Greece on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and 26 October to 2 November 1999. Strasbourg, 13 September 2001.}

Many prisons provide limited access to cultural and sports activities and a small number provide a degree of psychological support for individual prisoners. In general, however, it is hard to find any conclusive evidence that the experience of prison provides those who undergo it with any meaningful preparation for life after release.

Family and other contacts

‘Special attention shall be paid to the maintenance and improvement of such relations between a prisoner and his family as are desirable in the best interests of both.’ UN Standard Minimum Rules, Rule 79.

The prison is a closed world in which special efforts need to be made to ensure that prisoners can maintain and develop links with their families and friends. This is important if the prisoners are not to be isolated from the communities from which they have come and to which they will one day return. The parents, partners and children of people who are in prison also have a right to maintain their ties with the family member deprived of his or her liberty. The daily restrictions of prison life make it impossible to have a meaningful family life.

In a number of countries, contacts between pre-trial prisoners and families and friends have to be approved by the prosecuting or judicial authorities. Where they do take place, visits are usually held under direct supervision and are limited in time. The CPT has expressed continuing concern at the restriction on visits for pre-trial prisoners in Denmark. Despite previous recommendations, at the time of the 2002 visit the CPT found that the imposition of restrictions (supervised weekly visits limited to 30 minutes, withholding or monitoring of correspondence, prohibition of telephone calls) continued to lie within the sole discretion of the police, who had received no instructions on the circumstances under which such restrictions could be applied.\footnote{CPT/Inf (2002) 18 Report to the Government of Denmark on the visit to Denmark carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 28 January to 4 February 2002. Strasbourg, 25 September 2002.}

These restrictions are not universal. In Spain, for example, the General Penitentiary Law and the Penitentiary Regulations make no distinction between pre-trial and convicted prisoners with regard to visits and communications.

In all countries sentenced prisoners are allowed to have contact with their families and friends, although the conditions in which visits take place vary enormously. In England and Wales, for example, all visits take place in a general visiting room where staff can see, but not necessarily hear, everything that is going on. In many cases prisoners are required to wear a bib or other piece of clothing which identifies them as prisoners. Visitors, including children of prisoners, are required to sit at the opposite side of a table. Visits usually last for two hours at most, even for prisoners serving...
long sentences. In Austria visits for sentenced prisoners last up to 30 minutes each week. During its visit to Ireland in 2002, the CPT found in one prison that,

‘[…] visiting arrangements remained unsatisfactory […] the visiting facilities offered no privacy and became very noisy when several prisoners received visits at the same time. In short, prisoners and their visitors are not yet able to meet under conditions conducive to the maintenance of positive relationships’.

In Spain prisoners who are not entitled to home leave permits may receive one family or intimate visit per month of not less than one hour and not more than three hours. All closed prisons must have suitable facilities for family/intimate visits. A number of Scandinavian prison systems have similar arrangements for what are usually described as conjugal visits. The prisoner and the visitor are allowed to go into a room, furnished with a bed and a shower, for a period of up to three hours.

The most humane type of visits for prisoners and family members are to be found in Eastern European countries. In Estonia, for example, sentenced prisoners may receive private visits from their spouses and families, at regular intervals, for up to three days. These visits take place in small flats within the security of the prison. The family visitors bring with them sufficient food for the period. There are usually communal sitting, cooking and play areas for children and up to a dozen separate bedrooms for prisoners and their partners. During these few days prisoners can lead a relatively normal life with family members.

In all countries sentenced prisoners are allowed to send and receive personal correspondence although this may be subject to checking by staff. Most systems now allow prisoners access to pay telephones subject to certain restrictions. These are often subject to monitoring by staff on security grounds.

In a number of countries severe restrictions are increasingly imposed on high security prisoners when they meet family or friends. In England and Wales, for example, these prisoners are separated from their visitors by a glass screen. There are very restricted visiting conditions for high security prisoner in countries such as Italy and the Netherlands.

**Discipline**

Natural justice requires that when a prisoner is accused of a breach of prison regulations and faces possible disciplinary sanctions, he or she should be informed in advance of the charges which have been made, should be given the opportunity to present a defence and to question the accuser and any witnesses. If a disciplinary punishment is imposed, the prisoner should have the opportunity to appeal to a higher authority.

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Responses from the majority of countries surveyed for this report indicate that prisoners are able to speak in their own defence when charged with a breach of prison discipline. In some countries, such as Spain, prisoners have the right to appeal to the supervisory judge. Disciplinary sanctions are not normally implemented until the supervisory judge has ruled on any appeal, although in cases involving serious indiscipline sanctions may be implemented immediately. However, the supervisory judge must be notified immediately of any appeal against cellular confinement. A prisoner facing disciplinary proceedings and summoned to a hearing must be informed in writing of what he is charged and allowed at least three hours to prepare his defence, which he is entitled to present in person. A prisoner may also be assisted or represented by a lawyer. An appeal against the outcome of any disciplinary hearing must be made in the first instance to the regional director of prison services within 15 days of the publication of the initial decision.

In England and Wales all disciplinary charges are dealt with at an oral hearing. The accused prisoner is present, can hear the charge against him and is allowed to speak in his own defence. Following Ezeh and Connors 49, charges considered too serious for the Governor to handle are referred to an independent adjudicator. In these cases, the prisoner accused will be allowed to have legal representation at the hearing.

In Cyprus the Prison Regulations provide that a prisoner shall not be punished without first being informed of the offence with which he is charged and being given the possibility of defending himself. However, in 2000 the CPT found that in practice prisoners received no written notification of the charges they faced or of the timing of the hearing 50. Further, they had no right to call witnesses on their own behalf and there was no provision for legal representation. In Latvia in 1999 the CPT were told that prisoners were only seen in person in the event of a very serious disciplinary offence. In other circumstances the prisoner has the opportunity of stating his/her point of view in writing. The CPT recommended that there should be an oral hearing in all disciplinary cases, and that, if necessary, the relevant regulations should be amended accordingly 51. In Malta the CPT found during its visit in 2001 that prisoners were not allowed to call witnesses on their own behalf and could not cross-examine evidence against them or make statements in mitigation if found guilty by the Prison Director 52.

**Solitary confinement**

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49 Case of Ezeh and Connors v. the United Kingdom: Application numbers 39665/98 and 40086/98 respectively.


‘Efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged.’
UN Basic Principles for the Treatment of Prisoners, Principle 7

‘Solitary confinement can, in certain circumstances, amount to inhuman and degrading treatment: in any event, all forms of solitary confinement should be as short as possible’.

The natural state of human beings is to live in groups rather than in isolation and prison is no exception to this. From time to time individual prisoners may be held apart from all others, either in the interests of security or as a punishment. There are various forms of solitary confinement. The most extreme occurs when an individual is held entirely on his or her own and is subject to sensory deprivation by lack of access to light, sound or fresh air in what are often called ‘dark cells’. This form of isolation should never be imposed. There should be a similar injunction against holding small groups of prisoners in such an environment. Another form of solitary confinement occurs when a prisoner is held in a single cell with access to normal light and air and can hear prisoners moving in adjacent areas. This type of isolation should only be used in exceptional circumstances for short periods of time. In all such cases prisoners should be carefully monitored on a daily basis by a doctor to note any deterioration in their health; in that case the punishment should be ended.

In recent years a number of prison systems have introduced special maximum security conditions for some prisoners who are thought to present a special risk to the state or to other prisoners. In many cases this amounts either to individual solitary confinement or to confinement in very small numbers. As a general rule prisoners should only be confined in these conditions if their behaviour has shown them to pose such a threat to safety and security that they cannot be held in any other manner. It should be stressed that any assignment to such conditions should be for as short a time as is possible and should be subject to continuous review.

The Council of Europe has laid down specific conditions for the management of so-called dangerous prisoners.

In many prison systems solitary confinement remains available as a disciplinary punishment. In Belgium, for instance, prisoners may be placed in solitary confinement for a maximum of nine days. This can be renewed if the prisoner commits another serious offence but there must be a gap of at least a day before a second period of solitary confinement may begin. Any period over three days must be reported immediately to the Minister. A doctor is required to interview any prisoner in solitary confinement but for security reasons these interviews take place within hearing of security staff. In Austria solitary confinement may be applied for up to four weeks. Prisoners are for the most part allowed visits and one hour of exercise each day. A medical officer visits them daily. In the Czech republic the maximum length of time

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54 Council of Europe Committee of Ministers Recommendation No. R (82) 17 of The Committee of Ministers to Member States Concerning Custody and Treatment of Dangerous Prisoners (Adopted by the Committee of Ministers on 24 September 1982 at the 350th meeting of the Ministers' Deputies).
that a sentenced adult prisoner can be held in solitary confinement is 20 days, with ten
days for pre-trial detainees and five days for juveniles. Adults in solitary confinement
are not allowed reading matter. In Slovakia prisoners can be held in solitary
confinement as a punishment for up to 20 days, in England and Wales for 21 days, in
Hungary and Luxembourg for 30 days, in Austria and Denmark for up to four weeks
and in Estonia for a maximum of 45 days.

The CPT has expressed concern about the conditions of solitary confinement in a
number of countries. For example, in 2000 it indicated that in each of the four prisons
visited in France the conditions of the solitary confinement cells fell short of the
minimum standard in one or more regard\textsuperscript{55}. In Latvia the CPT considered the
conditions of detention in the disciplinary cells at the Central Prison to be
unacceptable. It recommended that immediate measures be taken to ensure that
prisoners placed in them were given a mattress and blanket at night, offered one hour
of outdoor exercise per day and given access to reading matter\textsuperscript{56}.

In some countries prisoners are held in virtual solitary confinement, not as a
punishment, but solely because of the nature of their offence or the threat which they
are thought to pose to the state. The CPT has commented critically on conditions in
the extra high security units in the Netherlands where prisoners were subject to a
very impoverished regime [which] was having harmful psychological consequences
for those subjected to it\textsuperscript{57}. Reference is made elsewhere in this report to prisoners
held in Italy under Article 41-bis of the penitentiary legislation. In respect of Spain
the UN Committee against Torture has expressed concern at the severe conditions of
detention of those in the highest security category. It has concluded that the physical
conditions of imprisonment of these prisoners are at variance with prison regulations
aimed at their rehabilitation\textsuperscript{58}.

Concerns have also been raised in respect of a number of countries about the practice
of holding numbers of pre-trial prisoners in solitary confinement for lengthy periods
as a matter of course. In Denmark, for example, the use of solitary confinement for
remand prisoners by court order during investigation has featured prominently in the
ongoing dialogue between the CPT and the Danish authorities. The Committee
stressed that all forms of solitary confinement without appropriate mental or physical

\textsuperscript{55} CPT/Inf (2001) 10 Rapport au Gouvernement de la République française relatif à la visite en France
effectuée par le Comité européen pour la prévention de la torture et des peines ou traitements
\textsuperscript{56} CPT/Inf (2001)27 Report to the Latvian Government on the visit to Latvia carried out by the
European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or
\textsuperscript{57} CPT/Inf (2002) 30 Report to the Authorities of the Kingdom of the Netherlands on the visits carried
out to the Kingdom in Europe and to the Netherlands Antilles by the European Committee for the
Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in February 2002.
Strasbourg, 15 November 2002.
\textsuperscript{58} CAT/C/CR/29/3 Conclusions and recommendations of the Committee against Torture: Spain.
23/12/2002. Available online at
stimulation are likely in the long term to have damaging effects, resulting in the deterioration of mental faculties and social abilities. Following the 1997 CPT report new legal provisions on placement in solitary confinement by court order entered into force in July 2000. In particular, a court ruling to the effect that a remand prisoner be segregated must be reasoned. The initial period of solitary confinement may not exceed two weeks but can be extended for successive periods of four weeks; only in exceptional cases can solitary confinement last more than three months. The overall use of solitary confinement by court order has consistently decreased in recent years and it has halved since the entry into force of the above-mentioned provisions (from 11.3% in 1999 to 5.1% in 2001). Despite these changes the CPT has continued to express concern about this matter. In December 2003 the ECtHR ruled that a case brought by a Danish prisoner concerning the alleged excessive use of solitary confinement was admissible under article 3 of the Convention. The prisoner had been detained on remand in isolation for almost a year.

The CPT has also expressed concern over several years about the strict conditions in which pre-trial prisoners are held in Sweden. Following its visit in 1998 the CPT called for changes to the law to allow appeals against such restrictions and in 2003 they noted that satisfactory measures had still not been taken. The courts were still not informed of the specific restrictions which a prosecutor intended to impose and the grounds for imposing those restrictions were not systematically recorded. The delegation also noted that, in the context of the periodic review by the court of the need to maintain remand, the question of the need to maintain restrictions could be handled by the simple written assertion by prosecutors that “restrictions are still required” which was, quite literally, ‘rubber-stamped’ by the court to which it was addressed.

There has also been concern about the extent to which prisoners accused or convicted of terrorist offences or organised crime are held in solitary confinement in some countries. The general implications of this matter have been dealt with elsewhere in this report. In Italy they affect prisoners held under Article 41-bis of the penitentiary legislation and in England and Wales those held under the Anti-Terrorism, Crime and Security Act (2001).

**Discrimination and racism**

59 CPT/Inf (1997) 4 Report to the Danish Government on the visit to Denmark carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 29 September to 9 October 1996. 24 April 1997.
61 Case of Rohde v. Denmark: Application number 69332/01.
62 CPT/Inf (99) 4 Report to the Swedish Government on the visit to Sweden carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 25 February 1998. 25 February 1999.
Traditionally, prison authorities have tended to regard prisoners as an homogeneous group in which everyone can be treated the same. This has meant in practice that prisons have been organised in the interests of the majority, usually adult male prisoners from the main ethnic, cultural and religious grouping of the country. The reality in many European prison systems is that in recent years prisoners have constituted increasingly disparate groups.

One immediately striking point is the proportion of foreign nationals in many prison systems. Only in Latvia, Lithuania, Poland, Northern Ireland and Scotland is it less than 2%. The proportion is over 30% in Austria, Estonia, Italy, Malta and the Netherlands and over 40% in Belgium and Cyprus. In Luxembourg it is 63.9%, out of a total of 352 prisoners. In England and Wales 11% of all prisoners are foreign nationals, but this figure rises to 20% for women.

It appears that minority ethnic groups are over-represented in many prison systems but it is difficult to be precise about this since many countries do not collect statistics regarding to ethnicity. An exception is England and Wales, which reported that 22% of male prisoners and 29% of female prisoners were from ethnic minorities and that 35% of these were foreign nationals.

Many of the prejudices extant in society against minority groups are reflected in the world of the prison. The report of the European Commission against Racism and Intolerance (ECRI) pertaining to Racism and Xenophobia in Relation to Imprisonment includes a number of references to abuses in prisons. The Commission’s Report on Austria mentioned reports of ill-treatment of non-citizens - including some asylum-seekers - by police and prison officers. Its third report on Belgium while noting the reported reduction in the average period of detention, expressed concern at the continuing widespread use of detention for asylum seekers in Belgium, particularly in respect of accompanied and unaccompanied minors. As regards Italy there were reports of ill-treatment by police, prison guards or other prisoners towards immigrants and non-EU citizen detainees, especially North Africans. Some NGOs reported that the authorities reacted slowly to such reports and that the penalties imposed are minimal and often suspended.

In England and Wales there has been a disproportionate number of deaths among prisoners from ethnic minorities in recent years. In its 1999 report on the United Kingdom the Council of Europe Commission noted this with concern and stressed that any such deaths should be rigorously examined by an independent body. It welcomed the introduction of ethnic monitoring of deaths in custody and encouraged the authorities to give priority to the analysis of the results. Following the murder of an

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64 All figures from World Prison Brief Online at March 2004. Available online at www.prisonstudies.org.
69 CRI (98) 48
Asian prisoner by his racist cell-mate in a young offenders’ institution in March 2000 the Home Secretary refused a request to hold a public inquiry. This decision was appealed to the House of Lords, which subsequently ordered the Home Secretary to conduct such an inquiry.\(^{71}\)

The rise of intolerance against prisoners from ethnic minorities can be linked to the increasing trend to imprison illegal immigrants, even when they are not charged with a criminal offence.\(^{72}\) The NGO UNITED for Intercultural Action reports that as far as illegal immigrants are concerned there is no restriction as far as the duration of imprisonment is concerned in countries like Denmark, Finland, Greece, the Netherlands, Sweden and the United Kingdom, whereas in France the maximum is twelve days.\(^{73}\) The report goes on to describe the impossible, and it argues illegal, situation facing imprisoned immigrants in many European countries.

The dangers of discrimination, racism and xenophobia in the prison setting are likely to require ever increasing vigilance in all countries in the immediate future.

### Juveniles and young people

The UN Convention on the Rights of the Child defines a child as anyone under the age of 18 (unless national legislation deems otherwise). The Convention states that children should not be deprived of their liberty unless there is absolutely no other option and then only for the shortest possible time. Children deprived of their liberty should be treated with humanity and respect and in a manner appropriate for their age. They should be separated from adults unless it is considered to be not in the child's best interest. Other international human rights instruments with references to children include the UN Standard Minimum Rules for the Administration of Juvenile Justice and the UN Rules for the Protection of Juveniles Deprived of their Liberty.

The age of criminal responsibility is the age at which the child can be held responsible for an action and if found guilty can be punished for it under criminal law.

Under that age, welfare or social care procedures deal with children who commit antisocial acts that come to the attention of the authorities. The age of criminal responsibility varies greatly within Europe from eight years in Scotland to 16 years in Belgium, Luxembourg and Portugal. The age of criminal responsibility was raised from seven to 12 in Ireland in 2001.\(^{74}\)

The international instruments make it clear that juveniles should be dealt with in a system that is separate from the systems for adults. The reasons are that children are unlikely to understand the process of a court of law, are entitled to special protection

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\(^{71}\) Opinions of the Lords of Appeal for Judgement in the cause Regina v. Secretary of State for the Home Department (Respondent) ex parte Amin (FC) (Appellant) on Thursday 16 October 2003, Session 2002-03 [2003], UKHL 51.

\(^{72}\) International Helsinki Federation for Human Rights <www.ihf-hr.org/documents>.

\(^{73}\) Information pertaining to this group, UNITED for Intercultural Action, the European network against nationalism, racism, fascism and in support of migrants and refugees, is available online at <www.unitedagainstracism.org>.

because they are vulnerable and any actions taken should be in the best interests of the child, and are deemed to carry less personal responsibility for their actions. All states covered by this report have some separate arrangements for dealing with juveniles.

The approach to imprisoning juveniles is not uniform throughout Europe. There are large differences in the numbers of juveniles imprisoned. For example, in a number of countries fewer than 1% of the prison population is aged under 18. Denmark has 0.3% (12 juveniles). Finland has 0.5% (17 juveniles). Hungary has 0.9% (161 juveniles). The Netherlands has 0.8% (101 juveniles of whom 90 were illegal aliens). Poland has 0.7% as has Slovakia (55 juveniles). Spain has 0.3% and both Sweden and Italy have no juvenile prisoners at all\(^75\). In other countries numbers and proportions are much larger. In Cyprus 7% of the prisoners are under 18 years of age, in Greece, 6.9%, in Northern Ireland 5.7%. In absolute numbers England and Wales has the most juvenile prisoners with 2498 in January 2004. This is however a lower figure that that for September 2002, when it was 2754\(^76\).

There are noticeable differences in policy towards juvenile offenders. Although commentators report a hardening of attitudes in recent years to young people who commit crime, in most of the existing EU countries educational and reformative measures have been predominant\(^77\). In Germany for example juveniles aged 14-17 are dealt with under the Youth Court Law which makes it clear that the exclusive aim is rehabilitation. The Youth Court is required to chose from amongst a range of sanctions specifically for juveniles. Courts may decide to treat young adults, aged between 18 and 20, as if they were juveniles and use the juvenile sentencing measures. More than 60% of young adults are sentenced as juveniles. In France the law applying to juveniles emphasises measures of protection, help, supervision and education. Educational measures take priority over penal measures. Children under the age of 13 can never be subject to penal measures\(^78\). Juveniles can only be remanded in custody before a trial for one month and this period can only be renewed once. In Belgium and Scotland the principle of the welfare of the child is the prime determinant of the approach to juvenile delinquency. In Belgium most police forces have special youth brigades often run by police officers with social work training. In Scotland the ‘children’s hearing system’ has been in place since 1968 and ensures that when measures need to be applied the welfare of the child is the main factor to be considered\(^79\).

In England and Wales penal measures are applied to children from the age of 10 years. From 12 a child may be held in a secure establishment before his or her trial. From 12 a child may be given a 'detention and training order' which can be for up to 2


years. Half of the time must be served in custody and half under supervision in the community. There were also several hundred 12-14 year olds held in 'secure training centres' outside the prison system but within the penal system. The treatment of juveniles in detention in England and Wales has been criticised by the United Nations Committee on the Rights of the Child who expressed concern that 'between April 2000 and February 2002, 296 children sustained injuries as a result of restraints and measures of control applied in prison.' The Committee also expressed concern about the placement of children in juvenile detention and in solitary confinement in prisons.\(^{80}\)

In the former communist countries the treatment of juveniles was more punitive but reforms are being introduced. However, the reports in Part 2 show that solitary confinement as a punishment is applied to juveniles, the maximum being 5 days in the Czech Republic, Latvia, Lithuania and Slovakia (though in Slovakia the punishment can only be applied for part of the day) and 20 days in Estonia. In Latvia the holding of juveniles in pre-trial detention for long periods had been a cause of concern. In 2003 the courts enforced a 6-month limit for detaining juveniles prior to trial and the situation improved with the number of juveniles in pre-trial detention decreasing to 239, representing 7 percent of all detainees. Juveniles in Latvia are held in overcrowded pre-trial institutions. The standard specification of the amount of space considered necessary is 3m\(^2\) for juveniles and the CPT has recommended that this be increased to 4m\(^2\).\(^{81}\)

Juveniles are very vulnerable to abuse and it is therefore an international requirement that they should be held separately from adults. In a recommendation on its third periodic report on Luxembourg (15 May 2002) the United Nations Committee against Torture recommended that Luxembourg refrain from placing minors in adult prisons for disciplinary purposes.\(^{82}\) It is also reported from Portugal that although there was one youth prison in Leiria, juveniles were at times held with adults elsewhere in the prison system.

**Women**

The proportion of women in the prisons of European countries varies considerably within a narrow band. The highest proportion is found in Portugal with 8.1% and the lowest in Northern Ireland with 2.1%. Higher proportions than the average are found in Spain 7.9%, the Netherlands (6.8%) Finland and Luxembourg (6.1%) and Hungary and Latvia (6%). Countries with proportions below 3% are Lithuania (2.8%), Poland

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\(^{80}\) United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding Observations, United Kingdom of Great Britain and Northern Ireland, CRC/C/15/Add 188 9 October 2002

\(^{81}\) Report to the Latvian Government (CPT/Inf (2001)27)

(2.7%), and Slovakia (2.5%)\textsuperscript{83}. Women have been particularly affected by increasingly tough anti-drugs laws in some countries and this had led to a much faster increase in the rate of imprisonment for women than for men\textsuperscript{84}.

The international and European human rights instruments, norms and guidelines have largely neglected women prisoners\textsuperscript{85}. Little consideration is given in the instruments to the specific problems women face as the primary caregivers of children or to the backgrounds from which women prisoners come, which are often backgrounds of abuse and violence\textsuperscript{86}. The small numbers of women prisoners, never more than one in ten of all prisoners, present difficulties for prison administrations which have to decide if women are to be concentrated in one place, with the implication that they will be distant from their homes, or held nearer their homes in small units, in which case the facilities they need might not be available.

The international norms and guidelines are mainly concerned when dealing with women with the problems of pregnant prisoners and imprisoned mothers with small children. There is also concern to protect women from abuse by requiring men and women to be held separately at all times.

The CPT has made an attempt to fill this vacuum by setting out in its 10\textsuperscript{th} General Report the standards it expects to see in the treatment of women in detention\textsuperscript{87}. The Committee is of the view, for example, that prisoners should only be searched by staff of the same gender and any search requiring prisoners to undress should be done out of sight of staff of the opposite gender. In principle women should be held separately from men. However where some gender association is occurring in prison the Committee recognises that this can be positive providing prisoners agree and are properly supervised. Babies should not be born in prison. Pregnant women should never be shackled or restrained to beds or other furniture.

In almost all prisons involved in the current review women prisoners are detained either in separate prisons (for example, Czech Republic) or in separate wings of male prisons (for example, Belgium). In Denmark, however, prison regulations do not require men and women to be held separately and in one prison male and female prisoners live in the same area. The CPT recommended confining women in the same area as men only when they expressly agree to the conditions and when the areas are supervised adequately\textsuperscript{88}. In Germany women are generally accommodated separately from men in women's prisons. For certain reasons (for example, if there is generally a low number of female prisoners in a State or part of a State) women may be provided

\begin{footnotesize}
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\item[83] Figures from World Prison Brief Online at March 2004. Available online at <www.prisonstudies.org>
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with separate sections in men's prisons. Women on remand are also accommodated in special institutions or in separate sections. Provision is also made so that mothers can be accommodated with their children. Currently there are 8 women's prisons in Germany with mother and child sections.

In Hungary there are special rules to protect women, concerning pregnancies, abortions, health and safety at work. The use of physical restraint equipment in the case of women is much more restricted than in the case of men.

In some countries, such as Latvia and Lithuania, regulations require more space to be allocated for each female prisoner than for each male. There are also lower limits on the time women may be sent to solitary confinement and a higher provision for the time to be allotted for daily exercise.

The CPT found that in Malta the situation for women prisoners was less favourable. They were offered a very limited selection of work activities - cooking, cleaning, and simple industrial work (packing) - in which only half of them were involved. They also discovered in the women's section that a medical register containing confidential information was placed within ready access of custodial staff\textsuperscript{89}.

In Poland there are 21 detention facilities for women; five of these are exclusively for women and in 16 men and women were held separately but in the same building.

There are special provisions for women. Specialist care is offered to those who are pregnant or breast-feeding. There are two ‘houses for mothers and children’, where the children can remain with the mothers up to the age of 3. In principle, women are held in semi-open institutions. Pregnant or breast-feeding women cannot be punished by placement in an isolation cell.

The needs of imprisoned women are significantly different from those of men. With the exception of the 10\textsuperscript{th} General Report of the CPT, there is very little recognition of this fact.

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\textsuperscript{89} CPT/Inf (2002) 16 Report to the Maltese Government on the visit to Malta carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 18 May 2001. Strasbourg, 27 August 2002.
PART 2 - COUNTRY REPORTS

AUSTRIA

**Significant points:** The prison population is increasing. In 1992 there were 6,913 prisoners, in 1998 there were 6,962. In November 2003 the prison population was 8,114, giving a rate of 100 per 100,000. Of these 26.8% were pre-trial, 5.7% were female, 2.5% were juveniles and 33% were foreign nationals. In January 2004 Austria reached agreement with the government of Romania to build and run a prison in Romania to house Romanians held in Austrian prisons who were either convicted or had admitted a crime. It is reported that the new prison would save the Austrian government £10 million a year.

The Ministry of Justice is responsible for prison administration. There are 29 penal establishments.

In 2000 the European Court of Human Rights (ECtHR) held that Austria was guilty of a violation of Article 6(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms (Riepan). It found that the trial of a prisoner accused of threatening behaviour (*gefährliche Drohung*) was not held in a sufficiently public place, having been held in the closed area (*Gesperre*) of Garsten Prison. The prisoner had complained specifically that the trial was accessible only to people with special permits, other than prison personnel, and that the room in which the hearing took place was too small to accommodate spectators.

In a 2001 case (Lamanna), the ECtHR found Austria to be in breach of article 6(2) of the Convention. A former (acquitted) prisoner wished to claim compensation for pecuniary damage caused by his detention on remand, but two Austrian courts undermined this application by expressing the view that there was a continuing suspicion against him. These expressions were found to have violated his right to be presumed innocent.


**Separation of prisoners by category:** Pre-trial prisoners are detained separately from sentenced prisoners. Women prisoners are detained separately from men. Minors under 18 are detained separately from adults.

**The use of individual and shared accommodation:** About 20% of prisoners have individual cells. The rest share mostly two to four person cells. The maximum number of prisoners in a cell is reported to be eight.

**Overcrowding and space per prisoner:** The occupancy level of the system as a whole was 101.1% at 10 November 2003 (8,022 places, 8,114 prisoners).
**Physical conditions:** In its report on the visit to Austria in 1999, the CPT recommended that the material conditions in the prisons be improved. The government responded negatively to this recommendation and pointed out that money was not available to carry out repair work quickly, and that prisoners were to blame for much of the dilapidation and dirtiness of the buildings. In the same report the CPT recommended that the supply of hygiene materials be improved. Pre-trial prisoners may wear their own clothing. According to the national prison administration, bedding is changed ‘as often as necessary, with no special times.’

**Food:** Special diets are available for health and religious reasons.

**Medical care:** This was criticised by the CPT in 1999. For example, the Committee expressed concern at the lack of proper medical assessment for new prisoners. In its response the government indicated that new orders had been introduced to improve this.

WHO Guidelines are followed and HIV positive prisoners are not segregated. All prisoners are tested for tuberculosis. A methadone substitution programme is available to drug users. Specific information and education materials are available for prisoners on the prevention of blood-borne diseases. Vaccination against hepatitis B is available in a few prisons. Disinfectants are said to be provided in all prisons with instructions on how to use them for cleaning needles.

**Disciplinary charges:** Prisoners may speak in their own defence on all occasions. They may appeal any decisions made.

**Solitary confinement as a punishment:** Solitary confinement may be applied for up to four weeks. Prisoners are for the most part allowed visits and one hour’s exercise a day. They are visited daily by a medical officer.

**Requests and complaints:** There are no restrictions on prisoners making complaints. They may do so confidentially using a closed envelope.

**Communications:** Decisions about visiting for pre-trial prisoners are determined by a judge. For sentenced prisoners visits may last for up to 30 minutes a week.

**Activities:** It was reported that 60% of sentenced prisoners and 3% of pre-trial prisoners have work available. It was reported in 1999 that some social benefits of Austrian prisoners are protected. In the case of any accident or long term illness caused by work whilst in prison the prisoner is entitled to the same right to compensation, health care or a pension as any other employee. This insurance also covers voluntary work for the government or a charity. Since 1994 the Government has covered the equivalent of the employer’s contribution and the prisoners pay the employee’s contribution to the unemployment insurance scheme so that released prisoners are insured against unemployment. A prisoner who has not been given work whilst in prison is also covered for the time spent in prison.

Prisoners have been represented in wage negotiations by the Metal Workers Union. The prison wages paid are comparable to low wage industries such as textiles and foods. Seventy-five per cent of the wage is deducted to cover the costs of custody.
Payments to the National Unemployment Insurance Fund are deducted from the remaining 25%. Half of the rest is held back for sentenced prisoners until their release.

**Exercise:** All prisoners are entitled to one hour a day for exercise.

**Access to a legal representative:** Pre-trial prisoners may have telephone contact with their lawyer and special meeting rooms are available in prisons.

**Sources**
- Case of Lamanna v. Austria: Application number 28923/95.
- Case of Riepan v. Austria: Application number 35115/97.
- Ministry of Justice <www.bmj.gv.at>
- Strafvollzugsgesetz (Austrian prison law).

**BELGIUM**

**Significant points:** The prison population is increasing. In 1992 there were 7,116 prisoners, in 1998 there were 8,271. In November 2003 the prison population was 9,147, giving a rate of 88 per 100,000. Of these 36.7% were pre-trial, 4.1% were female, 1.1% were juveniles and 40.9% were foreign nationals. The proportion of foreigners is therefore very high.

The Ministry of Justice is responsible for prison administration and there are 32 penal establishments.

In 1997 more than half the guards from Belgium's prisons went on a 24-hour strike over pay and conditions. Unions demanded a lower retirement age and a shorter working week. During the strike policemen were called in to help guard prisoners.

In February 2001 a Belgian court heard remand prisoner Marc Dutroux’s complaint of degrading treatment, in particular, an overuse of solitary confinement, body searching and sleep deprivation. Perceived police incompetence triggered huge demonstrations in Brussels in 1996 and as a result of the uproar the government promised changes to the constitution to reduce political interference in the judicial process. The case has taken eight years to come to trial, but is now underway (1 March 2004).

The main reported problem is overcrowding and pressure on resources.

**Inspections by an independent body:** Independent inspections are conducted by judicial authorities, such as the examining magistrate, the president of the court and the provincial governor. Each prison also has a monitoring committee.

**Separation of prisoners by category:** The prison administration reports that pre-trial prisoners are always detained separately from sentenced prisoners; women prisoners
are always detained separately from men, but in separate wings rather than separate
prisons; juveniles under 18 are always detained separately from adults. It is worth
noting however that, generally, only adults (18+) can be detained in penal institutions.
Children between the ages of 16 and 18 may only be detained in an adult prison if
they have been tried in an adult court on the instructions of a Children’s Judge (Juge
de la Jeunesse).

The use of individual and shared accommodation: Recently refurbished prisons
have cells designed for one to four people. The space in each cell was deemed by the
CPT on its visit in 2001 to be appropriate for the intended number of prisoners. In
practice, however, severe overcrowding means that the policy on cell occupation
cannot be met.

Overcrowding and space per prisoner: Based on the official capacity of each penal
institution, it is reported that overcrowding exists both in pre-trial institutions and
institutions for sentenced prisoners. The standard specification of the amount of space
that is considered necessary for each prisoner is from 8m² to 10m². The occupancy
level of the system as a whole was 113% at 25 November 2003 (8,092 places; 9,147
prisoners). During its visit in 2001 the CPT expressed serious concern at the observed
levels of overcrowding. In its reply the government indicated that it had developed
tools to enable the prison administration to carry out a needs analysis with regard to
future trends in prison population.

Physical conditions: Sanitary arrangements and arrangements for access are reported
to be adequate, with every prisoner able to have a bath or shower at least once a week.
Pre-trial detainees are allowed to wear their own clothing if it is clean and suitable,
unless reasons of security, hygiene or decency make it inappropriate. As a rule, every
prisoner has a separate bed. It is however reported that, due to overcrowding,
mattresses are sometimes temporarily placed directly on the floor. Prisoners’ bedding
is changed as frequently as possible in order to ensure its cleanliness and healthiness.
It is reported that the cleanliness of penal institutions is generally satisfactory but can
vary from one prison to another.

Food: The quality and quantity of food are reported to be close to average standards
in communal catering outside, although it may vary from one prison to another.
The prison administration reports that it is able to provide a balanced diet, including
meat, fruit and vegetables. In addition, special diets are provided for those whose
health or religion requires it.

Medical care: Medical policy, organisation and function are reported to be generally
equivalent to those outside prison. After admission to a penal institution, prisoners are
seen by a member of the institution’s health care staff at the very latest the next day. It
is reported that there is qualified and available medical staff (including psychiatric
and psychological medical staff) in each penal institution in order to ensure that
prisoners (including pre-trial prisoners) receive at least an equivalent standard of
medical care to that received by people in the community outside.

All prisoners’ medical files are said to be totally computerised, password-protected
and only accessible to the medical staff. It is also reported that all medical
examinations of prisoners are conducted out of the hearing and out of the sight of
prison security staff, except when the doctor requests otherwise, when prisoners are held in disciplinary confinements, or when some security reasons make it impossible. Following a visit by CPT in 2001, which expressed general satisfaction with the confidentiality of medical records, the prison administration issued a directive requiring those security staff attached to medical facilities to remain out of earshot during consultations.

It is reported that only prisoners in perceived risk groups and prisoners who request it are tested for HIV and AIDS; and prisoners who are found to be HIV positive are not segregated from others. Every prisoner is tested for tuberculosis, and there is a treatment programme for prisoners testing positive. Limited services for drug users are provided by NGOs. Information on prevention of blood-borne diseases and disinfectants for cleaning needles are available in some prisons.

**Rules for specific groups:** There are special rules concerning the treatment of women and of juveniles. There are no specific rules for the treatment of elderly prisoners except for those requiring particular medical attention.

**Disciplinary charges:** All prisoners facing a disciplinary charge have the right to be heard in their defence. There is no formal process of appeal to an external body but prisoners may seek an interview with the prison management in the hope that they might review the decision. Prisoners may also submit a complaint against a disciplinary decision to the *Commission de Surveillance* of the relevant prison. There is also a general right to appeal to the *Conseil d'Etat* against any administrative decision of the prison director. In response to comments from the CPT the government has undertaken a review of disciplinary procedures for prisoners. The report has been submitted to parliament.

**Solitary confinement as a punishment:** Prisoners may be placed in solitary confinement for a maximum of nine days. This can be renewed if the prisoner commits another serious offence but there must be a gap of at least a day before a second period of solitary confinement may begin. Any period over three days must be reported immediately to the Minister. A doctor is required to interview any prisoner in solitary confinement. For security reasons these interviews take place within earshot of security staff. In response to comments made by the CPT in the report of its visit in 2001 the government has undertaken a programme of work to ensure that all punishment cells are furnished and equipped to appropriate standards.

**Requests and complaints:** The procedure for dealing with complaints internally within the prison appears to be at the discretion of the local director. There is provision in the general regulations for prisoners to be disciplined for pursuing groundless complaints. Prisoners have the right to correspond with a range of authorities listed in the general regulations; that right cannot be removed as part of a disciplinary sanction.

**Communications:** Pre-trial prisoners, after the first appearance before a magistrate, may receive visits every day from family members and other specified persons unless they are subject to a specific exclusion by the magistrate. These visits are in closed conditions. Sentenced prisoners are allowed one visit per week in open visiting rooms. The prison administration has gradually introduced extended family visits for all
prisoners. Prisoners placed in solitary confinement for disciplinary reasons may not receive visits except from their legal representative.

**Activities:** Work is available for approximately 50% of prisoners. This may be for private contractors, for prison industries (Régie du Travail Pénitentiaire) or in the general service of the prison. Prisoners are paid for this work at varying rates. In theory prisoners who are serving a criminal or correctional sentence are obliged to work without payment as part of the sentence; in practice they also receive payment. Unemployed prisoners do not receive any remuneration from the prison service.

There is a programme of general education and vocational training. Attendance at those courses leading to a formal qualification is remunerated at the same level as employment in the domestic services of the prison.

The prison administration reports that there is also a wide range of leisure and cultural activities available to prisoners. However, the report of the CPT visit in 2001 observed that activities at Andenne, a prison holding long sentence prisoners, were almost non-existent. This is partly related to the shortage of specialist staff and of supervising security staff.

**Exercise:** Prisoners are allowed one hour’s exercise in the open air each day. In practice in some prisons this is considerably extended because of the lack of employment or other activities.

**Access to a legal representative:** All prisoners have the right of access to their legal representatives. Visits by legal representatives cannot be suspended as a result of disciplinary sanctions.

**Sources**

Arrêté ministériel du 12 juillet 1971 portant instructions générales pour les établissements pénitentiaires.

Arrêté royal portant règlement général des établissements pénitentiaires (21 Mai 1965).

Belgian Council of State (Supreme Administrative Court) <www.raadvst-consetat.be>

Code Penal (8 Juin 1867).

CPT/Inf(95)6: Rapport intérimaire du Gouvernement belge.

CPT/Inf(96)7: Rapport de suivi du Gouvernement belge.

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CPT/Inf(99)11: Rapport de suivi du Gouvernement belge.

CPT/Inf(99)6: Rapport intérimaire du Gouvernement belge.


Federal Parliament <www.fed-parl.be>

House of Representatives <www.lachambre.be>

La Ministre de la Justice (including Le Service Public Fédéral Justice) <www.just.fgov.be>


*Plate-Forme de Concertation Relative a la Liberation Conditionnelle: Rapport d’activités 2002.*
CYPRUS

**Significant points:** The prison population is rising. In 1992 there were 193 prisoners, in 1998 there were 226. In September 2003 the prison population was 355, giving a rate of 50 per 100,000. Of these 13.2% were pre-trial, 5.9% were female, 7% were juveniles and 42.9% were foreign nationals.

The Ministry of Justice and Public Order is responsible for prison administration and there is one prison.

New Prisons (General) Regulations were adopted in 1997. The CPT has welcomed their adoption by the Council of Ministers and finds them clear and comprehensive.

The US State Department, Human Rights report of 2002 notes that prison conditions generally met international standards, although there were some problems. According to a report issued in 2000 by the government Ombudsman, some prisoners with psychiatric problems did not receive proper medical care. During the year, the Ombudsman reported some improvements in this respect, including the daily visits of a social worker, psychiatrist, psychologist, doctor, and two nurses. The CPT identified overcrowding, segregation of prisoners with HIV, and inadequate safeguards to ensure justice during disciplinary hearings as the main problems.

**Inspections by an independent body:** The Government Ombudsman has the right to inspect the prison at any time. It is reported that the Government authorities permit prison visits by independent human rights monitors.

**Separation of prisoners by category:** It is reported that women prisoners are held separately from men, and children separately from adults. Pre-trial detainees are held separately from convicted prisoners.

**The use of individual and shared accommodation:** There is a mix of single cells and shared accommodation.

**Overcrowding and space per prisoner:** The Prison Regulations state: ‘The size of the individual cells must be at least 7 square meters and the size of the chambers must be such that a space of at least 4 square meters corresponds to every prisoner’. The CPT noted in 2000 that overcrowding continues to be a problem in several of the multi-occupancy rooms in the male accommodation area of the prison. The CPT recommended that the Cypriot authorities continue to make efforts to tackle this problem.

**Physical conditions:** Material conditions throughout the establishment are reported to be of a good standard. In particular, the level of cleanliness throughout the premises is commendable.

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**Medical care:** A doctor attends the prison three days a week for a few hours each day. There is also a visiting dentist and psychologist.

The CPT was concerned that confidentiality of medical information was still not guaranteed. Medical information continued to be recorded in two files, one of which - the prisoners' personal file - was kept in the records office and was available to all staff. The CPT also found deficiencies in the provision of medical cover.

At the time of the 2000 CPT visit the practice of segregating prisoners who are hepatitis/HIV positive from other prisoners was still in use. The CPT emphasised that there was no medical justification for the segregation of a prisoner solely on these grounds and urged the authorities to ensure that there is a full educational programme about transmittable diseases both for prisoners and prison staff. The CPT recommended that the existing health education programme be developed.

**Disciplinary charges:** The Prison Regulations provide that: ‘The prisoner shall not be punished without first being informed of the offence with which he is charged and without being given the possibility to defend himself.’ However, in 2000 the CPT found that in practice prisoners received no written notification of the charges they faced or of the timing of the hearing. Further, they had no right to call witnesses on their own behalf and there was no provision for legal representation.

**Requests and complaints:** There are locked boxes in the prison through which inmates may have direct written access to the Director of Nicosia Central Prison and to the Prison Board.

**Activities:** Prison Regulations state that: ‘The prisoners’ work must aim at the creative exploitation of the time spent in prison, and must contribute to their vocational training, and maintain or increase their potential for employment after their release; and aim at their smooth reintegration in society.’ (Section 89 (2)). ‘The organisation and methods of work must be similar, to the extent possible, to those of free society, so as to prepare the prisoners for the conditions of work they will meet after release.’ (Section 92).

The CPT was pleased to note that prisoners were able to spend a generous amount of time out of their cells. However, many prisoners appeared to spend their time in an unconstructive fashion. It also commented that work being offered to female inmates, such as sewing and gardening, was of a less vocational kind than that potentially available to male prisoners.

**Source**

**THE CZECH REPUBLIC**

**Significant points:** The prison population has decreased considerably since 1998. In 1992 there were 12,730 prisoners, in 1998 there were 21,560. In January 2004 the
prison population was 17,429, giving a rate of 171 per 100,000. Of these 19.6% were pre-trial, 4.2% were female, 1.2% were juveniles and 1.1% were foreign nationals.

The Ministry of Justice is responsible for prison administration and there are 35 penal establishments.

The prison system has made changes in recent years to bring it into line with Council of Europe requirements and in preparation for EU membership. The official minimum space allowance has been increased to 4m² and a pre-trial detention unit has been established at one prison where prisoners are unlocked for 12 hours a day. There has been an increase in the amount of money spent on food per prisoner per day. Three-year drug strategies (1997-2000, 2001-04) have been developed with special treatment units at three prisons. A harm reduction policy has been introduced for health care, including the provision of preventive health information. There has been an increase in the frequency and length of pre-trial detainees allowance for visits from outside, and a considerable increase in the number of educational staff, and also psychologists and social workers.

There have nevertheless been serious problems. Mass disturbances occurred in January 2000, which it is reported were caused largely by long-term overcrowding, deteriorating living conditions, the shortage of jobs and insufficient free time activities for prisoners. The level of overcrowding has since been significantly reduced. The prison budget is regarded as inadequate and has not been as large as was promised at the time of the disturbances.

Some human rights matters are a cause of concern. For example, adults in solitary confinement are not allowed reading matter. In the case of Cesky in 2000, the European Court of Human Rights found that the Czech Republic had violated article 5(3) of the Convention as a result of the excessive length of the applicant’s detention on remand (over four years).

**Inspections by an independent body:** Independent inspections are conducted by an authorised state’s attorney of the regional prosecutor’s office within the territory in which the prison is situated. Other bodies independent of the prison administration that conduct inspections include the Office of the President and the Helsinki Committee.

**Separation of prisoners by category:** The prison administration reports that untried prisoners are always detained separately from convicted prisoners, women prisoners separately from men, and juveniles under 18 separately from adults. The legislation indicates that if exceptionally it is in the interests of the juvenile to be located with an adult this may occur.

**The use of individual and shared accommodation:** About two per cent of the prison population is held in single cells. The Pre-trial Detention Act makes provision for pre-trial detainees to be placed in a single cell if they request it and the conditions in the prison make it possible. About 10% of the prison population are held in cells/rooms for four people. The largest number of prisoners held in one room is said to be 18.
Overcrowding and space per prisoner: Accommodation for sentenced prisoners is overcrowded. The standard specification of the amount of space considered necessary for each prisoner is 4m², having been increased from 3.5m² in February 2002. The capacities of the penal institutions are based on the standard specification. The occupancy level of the system as a whole was 95.6% at 1 September 2002 (17,634 places, 16,861 prisoners), since when the prison population has risen to 17,360 (at 31 October 2003).

Physical conditions: Every prisoner is able to have a bath at least once a week and more often if recommended by a doctor. Pre-trial detainees are allowed to wear their own clothing if it is clean and suitable.

Food: The quality and quantity of food are reported to be close to average standards in communal catering outside. There are however said to be insufficient fruit and vegetables provided to constitute a balanced diet. Different diets are provided, including diets required for health and religious reasons. The law requires that catering must be regular and take account of the health and age of the sentenced prisoner and the difficulty of the work that he or she is doing.

Medical care: The prison health care service has become closely integrated with the national public health service outside. It is also considered to be of equivalent standard to the public health service, and the professional supervision of doctors and the control of infectious diseases, like the hygienic conditions, are regulated by the public health service as well as by the prison service. It is reported that prison health care is sometimes better than that outside since it can be quicker to get appointments and care within the prisons.

There is a special treatment for drug addicts at Opava, Plzen and Rynovice prisons, including a unit for 160 at Plzen. In accordance with WHO guidelines prisoners are not routinely tested for HIV/AIDS, and prisoners who are HIV positive are not segregated from others. There is also a treatment programme for prisoners suffering from tuberculosis.

Rules for specific groups: The Prison Act requires that prisoners allocated to an institution for juveniles are to receive special attention, in respect of education, preparation for future employment, visits, packages and rewards. Pre-trial detainees are entitled to more frequent visits than are received by adults. Starting in 2001 young adults aged 18-26 also became the focus of special attention and all prisons now have special programmes for this age group. Special programmes have also been prepared for older prisoners (over 60). The Prison Act sets out the special arrangements that are in place for women prisoners.

Disciplinary charges: Legislation gives prisoners facing disciplinary charges the right to comment and give their side of the story before any punishment is imposed. Likewise they may appeal against any punishment imposed.
Solitary confinement as a punishment: The maximum length of time that a sentenced adult prisoner can be held in solitary confinement is 20 days, and 10 days for pre-trial detainees. For juveniles it is half these amounts. Adults in solitary confinement are not allowed reading matter.

Requests and complaints: The legislation specifies that prisoners are entitled to make complaints and set out the procedures.

Communications: The Pre-trial Detention Act states that pre-trial detainees may receive visits every three weeks for a period of 30 minutes, but it is understood that this has now been increased to every two weeks for a period of 60 minutes. Restrictions can be placed on visits to pre-trial detainees if it is suspected that the detainee would ‘frustrate the investigation of facts relevant to the prosecution’; in this case the ‘prior written permission of the court, and that of the prosecutor in preparatory proceedings shall be required for the reception of a visit’.

Sentenced prisoners may receive visits for a maximum of three hours a month. There are no types of sentenced prisoner who are allowed visits less often than once a month.

Rules concerning correspondence are set out, for pre-trial detainees in the Pre-trial Detention Act, and rules concerning correspondence and use of the telephone are set out, for sentenced prisoners, in the Prison Act.

Activities: At the beginning of 2002 work was available for 45% of the sentenced population. It is exceptional for work to be available for pre-trial detainees. The Pre-trial Detention Act states that detainees may work if they request to do so, but this will depend on the opportunities available in the prisons. The rules concerning the remuneration of sentenced prisoners are set out in the Prison Act. The pay received depends on the number of hours worked, based on the state minimum wage. Prisoners who are not working are given pocket money (this is less than the cost of a packet of cigarettes).

Other activities available to occupy sentenced prisoners during a normal day include education and vocational training. It is the policy of the prison service that prisoners be out of their rooms at least three hours a day in addition to work. Leisure activities include sport, handicrafts, gardening, visual arts and technical skills. The Prison Act requires the provision of education, reading, games and hobbies. Rooms are unlocked for most of the day.

Pre-trial detainees are guaranteed only one hour a day out of their cells, but the Pre-trial Detention Act describes a ‘more lenient regime’ that may be used for pre-trial detainees. This may provide ‘common social and cultural facilities where the accused shall be allowed to move freely at fixed times and to associate with the other accused persons placed in this department’.

Exercise: Prisoners are reported to have at least one hour a day of walking or suitable exercise in the open air.
Access to a legal representative: The Prison Act grants sentenced prisoners the right to receive confidential legal assistance from a lawyer.

Sources
Case of Cesky v. Czech Republic: Application number 33644/96.
CPT/Inf (99) 7: Report to the Government of the Czech Republic.
CPT/Inf (99) 8: Responses of the Czech Government.
International Helsinki Federation <www.ihf-hr.org>
Pre-trial Detention Act (1993).

Addendum: report following a visit carried out by the CPT in April 2002

Space per prisoner: The CPT recommended that the Czech authorities should re-establish an official standard guaranteeing a minimum of 4m² in multiple occupancy cells. In its response the government indicated that new regulations were expected to come into force on 1 July 2004 stipulating at least 4m² per person and that rooms of less than 6m² could not be used for accommodation.

Ill-treatment: The CPT received some allegations of physical ill-treatment of prisoners by staff and allegations of verbal abuse in all prisons visited, especially against Russian speakers and Roma.

Life sentence prisoners: The CPT expressed concern at the restricted conditions in which life sentenced prisoners were held, particularly in respect of visiting arrangements, access to activities and use of handcuffs. The government response indicated that a draft amendment to the Confinement Act would introduce fundamental changes to the management of life sentence prisoners and would meet the concerns expressed by the CPT.

Consultative councils: In response to a query by the CPT, the government indicated that consultative councils, which involved local municipalities in prison related matters, existed in 72% of prisons and draft legislation would make them obligatory for all prisons.

Sources
DENMARK

Significant points: Denmark is traditionally a low imprisoning country. Between 1992 and 1998 the size of the prison population hardly changed. In 1992 there were 3,406 prisoners, in 1998 there were 3,413. However it is now rising. In November 2003 the prison population was 3,908, giving a rate of 72 per 100,000. Of these 29.3% were pre-trial, 4.7% were female, 0.3% were juveniles and 16.3% were foreign nationals.

The Ministry of Justice is responsible for prison administration and there are 56 penal establishments.

Prison conditions in Denmark have long been regarded as reaching high levels of compliance with the requirements of the international human rights instruments. However the CPT has expressed ongoing concern about the holding of pre-trial prisoners in solitary confinement and Amnesty International has expressed concern about the use of solitary confinement more generally. New legislation has been brought in which meets some of these concerns but the CPT is still concerned about court-imposed limitations on visits to pre-trial prisoners. In December 2003 the ECtHR ruled that a case brought by a Danish prisoner concerning the alleged excessive use solitary confinement was admissible under Article 3 of the Convention. The prisoner had been detained on remand in isolation for almost a year (Rohde).

The Danish prison service has faced difficulties over recent years with the imprisonment of motorcycle gangs and there have been several incidents of violence. The government is developing a stricter prison policy and in January 2004 all dumbbells and weightlifting discs of more than 30 kilograms were removed from fitness centres in prisons. The head of the Danish prison guards' union said that he was ‘convinced that this intense bodybuilding by prisoners was behind the sharp rise in the number of violent and threatening incidents against prison staff.’ He identified in particular members of motorcycle gangs as being potentially dangerous.

Prisoners in Denmark retain their right to vote whilst imprisoned.

Inspections by an independent body: There is little external inspection and the emphasis is on local autonomy. The legal qualifications of prison governors are seen as sufficient safeguard of prisoners’ rights with the governor's role mainly seen in terms of ensuring the legality of the prison regime, rather than operational issues. A small internal inspectorate was set up in 1995 mainly to focus on prison record keeping. There is also an Ombudsman who deals with the workings of the administration.

Separation of prisoners by category: Pre-trial prisoners are detained with short-term prisoners. Danish prison regulations do not require men and women to be held separately. In one prison in Denmark male and female prisoners live in the same prison. The CPT recommended (2002) confining women in the same area as men only when they expressly agree to the conditions and when the areas are supervised adequately.
Very few juveniles are placed in prisons in Denmark. Imprisonment only takes place if the juvenile has violent behaviour and cannot be placed in a social institution. Convicted juveniles who are considered dangerous or at risk of escape are placed in a special prison which houses men and women up to the age of 29. A special department has been set up within this prison for young offenders aged 15-23.

The use of individual and shared accommodation: The vast majority (approximately 94%) of prisoners are held in single cells. The rest are held in cells for two to four people, with the exception of one cell in the Danish prison system which holds eight people.

Overcrowding and space per prisoner: In November 2003 the occupancy level was 100.4%. There is no standard specification of the amount of space that is considered necessary for each prisoner. However the CPT reported in 2002 that in the prisons visited single cells measured 6 to 7m², and the few two person cells measured 14m².

Physical conditions: The temperature in the living accommodation throughout the prison system is in accordance with the normal temperature in living accommodation in the community outside and the lighting, ventilation and access to natural light are also in accordance with that of the community outside.

Every prisoner is able to have a bath or shower every day. Pre-trial prisoners are able to wear their own clothes. These are washed by the institution or facilities are available for prisoners to do their own laundry. All prisoners have a separate bed and prisoners’ bedding is changed at least once every two weeks unless special circumstances render a more frequent change necessary.

Food: Most prisons have communal kitchens in the individual units of the prison, where each sentenced prisoner or group of prisoners has to prepare their own food. Prisoners may buy food in the grocery shops established at the individual prisons, and a refrigerator has been set up in each cell for food storage. Pre-trial prisoners are given food according to the quantity set by the Danish Veterinary and Food Administration, who also control the quality.

Medical care: Prisoners are entitled to the same standard of health care as the surrounding community. This means that they must have an opportunity to speak with a doctor and receive treatment at a hospital, if necessary. Just about all prisons employ prison doctors and prison nurses. Most places also have visiting psychiatric specialists. Local prisons employ a general practitioner for some hours a week. Pre-trial prisoners may call their own private doctor. The CPT in 2002 recommended that all newly arrived prisoners should be interviewed and medically examined by a doctor or a qualified nurse as soon as possible after their admission.

A treatment programme is provided by external organisations for prisoners who have a drugs problem/dependency. There are 200 places for treatment inside the prisons. There are also about 150 places in treatment facilities outside the prison where suitable prisoners may serve their sentences. Thirty places are available in a drug-free treatment programme. Vaccination for hepatitis C is available but the take-up is
reported to be low. Disinfectants and information on how to use them to clean needles are available in all prisons. Not all prisoners are tested for HIV or tuberculosis.

Rules for specific groups: It is reported that as soon as possible after admission a special treatment programme must be established for each juvenile prisoner, for example, education and other activities. Consideration is also given when sending a juvenile to prison to the proximity of the prison to their family and to educational institutions. Most of the closed prisons have special wings for older prisoners.

Disciplinary charges: All prisoners against whom a disciplinary charge is brought have the opportunity to speak in their defence and to appeal against any decision.

Solitary confinement as a punishment: Sentenced prisoners can be held in solitary confinement for up to four weeks; pre-trial prisoners for up to two weeks. Prisoners in solitary confinement are allowed visits, have at least one hour’s exercise in the open air per day, are allowed a mattress and bedding and are allowed access to reading matter. All prisoners in solitary confinement are provided with adequate sanitary facilities. It is the doctor’s responsibility to decide how often a prisoner in solitary confinement should have a medical visit; there is no fixed routine. The doctor may be called by the prisoner or a member of staff if needed.

The issue of solitary confinement of remand prisoners by court order in the interests of the investigation has featured prominently in the ongoing dialogue between the CPT and the Danish authorities. The Committee has stressed that all forms of solitary confinement without appropriate mental or physical stimulation are likely in the long term to have damaging effects, resulting in deterioration of mental faculties and social abilities. Following the CPT report new legal provisions on placement in solitary confinement by court order entered into force in July 2000. In particular, a court ruling to the effect that a remand prisoner be segregated must be reasoned. The initial period of solitary confinement may not exceed two weeks but can be extended for successive periods of four weeks; only in exceptional cases can solitary confinement last more than three months. The overall use of solitary confinement by court order has consistently decreased in recent years and it has halved since the entry into force of the above-mentioned provisions (from 11.3% in 1999 to 5.1% in 2001). The average length of such measures has apparently also diminished and very rarely exceeds three months. The CPT has welcomed these developments. Nevertheless, it has suggested that it would be desirable for the Administration of Justice Act to include a maximum limit for the duration of solitary confinement of remand prisoners by court order.

The conditions of pre-trial prisoners in solitary confinement are also a cause for concern. The CPT has recommended that ‘in compliance with Article 776 of the Administration of Justice Act, rules be adopted and implemented without delay to ensure that prisoners held in isolation have increased staff contact and access to visits, individual work and teaching, and are offered regular and longer conversations with chaplains, doctors, psychologists and other persons.’ Amnesty International has expressed concern that the limitations on solitary confinement for pre-trial prisoners were not available to convicted prisoners who were also denied access to a judicial review of decisions by the prison authorities to hold them indefinitely in solitary confinement.
**Requests and complaints:** A prisoner is entitled to unchecked correspondence by letter with the Minister of Justice, the Director General of the Prison and Probation Service, the courts (including the Special Court of Indictment and Revision), the Board of Appeal, the public prosecutor and the police, the Parliamentary Ombudsman, Members of Parliament, the European Court of Human Rights, the European Committee for the Prevention of Torture, the UN Human Rights Commission, the UN Committee against Torture and the prisoner’s assigned or retained counsel in the criminal proceedings resulting in imprisonment in the institution or in pending criminal proceedings.

**Communications:** Pre-trial prisoners have the right to receive visits and communicate in other ways with family members and friends if the right is not limited by the court or prosecutor. If this right is limited then the prisoner can appeal against the decision.

The CPT continues to be concerned at the restriction on visits to pre-trial prisoners. Despite its previous recommendations, at the time of the 2002 visit the CPT found that the imposition of restrictions (supervised weekly visits limited to 30 minutes, withholding or monitoring of correspondence, prohibition of telephone calls) continued to lie within the sole discretion of the police, who had received no instructions on the circumstances under which such restrictions can be applied. The CPT concluded that, ‘in the absence of appropriate procedural safeguards, at present there is still no guarantee that a proper balance is being struck between the legitimate requirements of the criminal investigation and the imposition of restrictions. Consequently, the CPT cannot agree with the Danish authorities' view that the existing legal provisions are adequate.’

Prisoners are allowed one weekly visit for at least an hour and, as far as possible, for two hours. Individual institutions can decide to allow longer or more frequent visits at their discretion.

**Activities:** It is reported that work is available for all sentenced prisoners. Work is available to approximately 70% of all pre-trial prisoners. If no work is available then a basic amount per hour must be paid to the prisoner. Prisoners receive remuneration for their work. In local prisons the prisoners are mostly paid by piece rates.

Sentenced prisoners have access to a range of other activities such as education, treatment programmes, leisure activities and sports.

**Exercise:** In open prisons there is no limit to the amount of walking or suitable exercise in the open air that a sentenced prisoner is allowed. In closed prisons a sentenced prisoner is entitled to at least one hour in the open air. Pre-trial prisoners are also entitled to a minimum of one hour in the open air.

**Access to a legal representative:** Priority is given to visits by legal representatives. Pre-trial prisoners are allowed visits by and unchecked correspondence with their lawyer whilst preparing their defence. Convicted prisoners are allowed unsupervised visits and have unchecked legal correspondence by letter with lawyers nominated by the Ministry of Justice.
Sources
Case of Rohde v Denmark: Application number 69332/01.
Danish Prison Service <www.kriminalforsorgen.dk>

ESTONIA

Significant points: The prison population has decreased in recent years. In 1992 there were 4,778 prisoners, in 1998 there were 4,811 and in September 2003 the prison population was 4,458, giving a rate of 330 per 100,000. Of these 28.9% were pre-trial, 4.7% were female, 4.9% were juveniles and 35.83% were foreign nationals. The proportion of foreigners is therefore high.

The Ministry of Justice is responsible for prison administration and there are 109 penal establishments.

The prison system has made changes in recent years to bring it more into line with Council of Europe requirements and in preparation for EU membership. The Imprisonment Act (2000) has introduced more flexible regimes for each prisoner. It has also led to a greater focus on the re-socialisation of prisoners during their sentence, increased the independence and decision-making powers of the prisons, created a career structure for prison staff and given higher priority to the training of prison staff. The opening of the new Tartu prison at the end of 2002 has enabled the closure of Tallinn Central prison which had been built in 1914 as a naval fortress.

The main problems facing the prison administration are the overcrowding both in pre-trial institutions and in institutions for sentenced prisoners, the shortage of employment for prisoners and the lack of treatment programmes. However, prisoners benefit from the opportunity for long family visits of one to three days in hostel-like accommodation within the prison, a system inherited from the Soviet days.

Inspections by an independent body: It is reported that there no independent inspections are conducted. The Ombudsman visits the prisons as necessary in connection with his responsibilities. The duty of the prosecutor to monitor the prisons ended in 1998 but he still controls the legality of pre-trial detention.

Separation of prisoners by category: The prison administration reports that untried prisoners are always detained separately from convicted prisoners and women prisoners are kept separate from men. Some juveniles under 18 are accommodated with young prisoners up to the age of 21.

The use of individual and shared accommodation: The largest number of prisoners held in one room is said to be 28.

Overcrowding and space per prisoner: Overcrowding exists in pre-trial institutions and institutions for sentenced prisoners. The standard specification of the amount of space considered necessary for each prisoner, established by regulations but not by
legislation, is 2.5m². The occupancy level of the system as a whole was 88.9% at 1 September 2002 (5,220 places, 4,640 prisoners), since when the prison population has risen to 4,874 (at May 2003).

Physical conditions: Sanitary arrangements and arrangements for access are reported to be adequate. Every prisoner is able to have a bath at least once a week. Pre-trial detainees are allowed to wear their own clothing if it is clean and suitable.

Food: The quality and quantity of food are said to be close to average standards in communal catering outside. The prison administration reports that it is able to provide a balanced diet, including meat, fruit and vegetables. Special diets are provided for those whose health or religion requires this.

Medical care: A decision was taken in 2001 to transfer the responsibility for prison health care to the civil health care system. This was to take effect in 2002. In 2001 in-patient treatment was given at the prison hospital in the Central prison, which had 160 beds and separate tuberculosis, surgery, psychiatric and internal diseases departments.

Many prisoners have an alcohol problem but there is no treatment programme for dependency on alcohol. The number of prisoners with a drug problem is increasing and a treatment programme is in place. HIV/AIDS is also a problem, with the numbers increasing; 300 prisoners, or one in every sixteen, were reported to be infected at the end of 2001. In accordance with WHO guidelines prisoners are not routinely tested for HIV/AIDS.

The most severe health problem among prisoners is tuberculosis. A National Tuberculosis Prevention Programme, including penal institutions, was established to run from 1998-2003. The numbers then began to fall.

Rules for specific groups: A mother and babies unit was established in Harku prison in 2001 where children can live with their mothers until the age of four. Mothers live separately from other prisoners in more comfortable conditions, with the opportunity to cook for themselves. Mothers may also take the children to a local kindergarten.

Solitary confinement as a punishment: The maximum length of time that a sentenced prisoner can be held in solitary confinement is 45 days for adults and 20 days for juveniles. Prisoners in solitary confinement are allowed at least one hour of exercise in the open air, and a mattress and bedding at night. The conditions in which the punishment of isolation is served caused concern to Council of Europe experts who visited all the prisons in 1997. They recommended that the cells in four prisons be refurbished or that all windows be modified to admit more natural light and fresh air ventilation. Following a recommendation they had made in 1997, the CPT found in 1999 that the punishment cells in the juvenile prison had been completely renovated and had good access to natural light and adequate artificial lighting, and were properly ventilated.

Communications: Pre-trial prisoners’ right to receive visits and communicate in other ways (such as letters, telephone calls) with family members and friends is dependent on the permission of the prosecutor or court. Sentenced prisoners may be
visited at least once a month. They may also receive private visits from their spouses and long visits of one to three days from their families. Long-term visits enable the prisoner to lead a relatively normal life with family members in a hotel-like atmosphere within the prison. There are no types of sentenced prisoner who are allowed visits less often than once a month.

**Activities:** Sentenced prisoners are required to work if they are fit to do so, if work is available for them and if they are not studying. At the beginning of 2002 work was available for only 28.3% of the sentenced population. There is no work available for pre-trial detainees. Production capacity has decreased due to the low level of technology and of the vocational skills of the prisoner workforce and a tightening of the competition. At the end of 2001, of the 926 sentenced prisoners who had work 352 were engaged in production activities and the other 574 in domestic and maintenance work.

Apart from work, activities available to occupy sentenced prisoners during a normal day include education and vocational training, health information programmes, life skills programmes, employment counselling programme, an anger management course and a course in self-assertiveness (solving conflicts without violence). Cells and rooms are unlocked throughout the day.

Pre-trial detainees are guaranteed only one hour a day out of their cells. The CPT has emphasised the need to allow all prisoners to spend a reasonable part of the day (that is, eight hours or more) out of their cells, engaged in purposeful activities of a varied nature.

**Exercise:** Sentenced prisoners and pre-trial detainees are reported to have at least one hour a day of walking or suitable exercise in the open air.

**Sources**

**FINLAND**

**Significant points:** The prison population is increasing, though from a much lower base than most countries in Europe. In 1992 there were 3,295 prisoners and in 1998
there were 2,569. In November 2003 the prison population was 3,604, giving a rate of 69 per 100,000. Of these 14.5% were pre-trial, 6.1% were female, 0.5% were juveniles and 8.5% were foreign nationals.

The Ministry of Justice is responsible for prison administration and there are 28 penal establishments.


Prisoners are eligible for private family visits lasting from four to six hours.

The CPT in 2003 highlighted the problem of inter-prisoner violence and noted that the segregation of ‘fearful’ prisoners from fellow prisoners led to the ‘fearful’ prisoners spending most of their day locked in their cells with little time mixing with other prisoners. Many prisoners live in cells without integral sanitation. The CPT also noted with concern a seriously mentally prisoner not receiving proper psychiatric attention.

**Inspections by an independent body:** The Parliamentary Ombudsman carries out inspections in prisons and other closed institutions to oversee the treatment of prisoners. The Ombudsman and his or her representatives have the right of access to all premises and information systems of the public office or institution, as well as the right to have confidential discussions with the personnel of the office or institution and the inmates there.

**Separation of prisoners by category:** Males and females are detained in separate units, although there are no special female establishments. According to the US State Department, juveniles are held separately from adults and pre-trial from sentenced prisoners.

**The use of individual and shared accommodation:** Most of the cells are single but due to overcrowding two prisoners often share a one-person cell.

**Overcrowding and space per prisoner:** At the end of 2002 there were 3,367 confirmed places in the institutions, 71.5 % of them in closed institutions. As the prison population increases, there is overcrowding especially in closed institutions. In 2002 this ran at 6.8%. The amount of space described by the national prison administration as being adequate per prisoner is 7m², but this is not enshrined in law. The CPT noted in 2003 that in the two prisons it visited a number of the single cells accommodated two prisoners each. In view of the cells' size (7 to 8 m²), such an occupancy rate was in the opinion of the CPT too high.

**Physical conditions:** Many prisons have a toilet in each cell, some also a shower. However some 800 old cells lack a toilet. The CPT noted that prisoners without access to a toilet in the cell complained that access to communal sanitary facilities was difficult to obtain, especially during the night and recommended that arrangements be made to allow all prisoners ready access to toilet facilities at all
times. The investment plan of the Prison Service has as a target that prisoners’ premises shall be renovated by 2011. Prisoners may take a shower three to five times a week.

**Food:** Food served in prisons is planned centrally so that it is in accordance with the prisoners’ nutritive needs and can be prepared economically. The quality of food, cost, preparing premises and food service should correspond to normal institutional requirements. Special diets are available for health reasons or for prisoners who need them because of their religion.

**Medical care:** The main principle of health care in the prisons is that imprisonment should cause no health hazard to a prisoner. A prisoner must have a genuine possibility of improving his health, preventing illnesses and receiving adequate health care services. The Act concerning a patient’s position and rights includes prisoners’ health care also. Health care personnel are required to preserve confidentiality. A prisoner’s state of health and working ability is assessed in the admission check by the nurse and if necessary, by the doctor. For personal hygiene, a package is given containing for instance disinfectants and dental care equipment.

HIV prisoners are not segregated. More than half of the prisons provide drug detoxification and drug free units. Some have therapeutic treatment units and more than half provide vaccination, provision of disinfectants, and access to condoms.

In 2003 the CPT noted that access to the doctor was found to be a particularly serious problem in some places and prisoners complained about long delays before they could see the doctor. The CPT also noted that nurses were required to initiate medical treatment of sometimes difficult and complex medical conditions, such as withdrawal symptoms in newly arrived prisoners. They described this as ‘a highly questionable practice.’

**Rules for specific groups:** When implementing a sanction imposed on a juvenile offender, particular attention must be paid to the special needs caused by the prisoner’s age and stage of development.

**Disciplinary charges:** A prisoner may speak in his defence and has the right to appeal against decisions concerning the disciplinary decisions of the prison service authorities. The appeal is made to the district court where the prison is situated.

**Solitary confinement as a punishment:** Solitary confinement cannot be for longer than 20 days. In practice it rarely exceeds seven days. Prisoners undergoing solitary confinement have daily exercise and have access to reading matter.

**Requests and complaints:** There are no restrictions on making requests and complaints. These can be addressed to the prison administration and the Parliamentary Ombudsman.

**Communications:** Prisoners may use the telephone. In most prisons, calls can be made at fixed times with phone-cards purchased by prisoners. If asked, a prisoner must name the person he is going to call. The call may be monitored if abuse is
suspected. Any call to the national prison administration, the prisoner’s lawyer or legal counsel must not be monitored.

There are no restrictions on the amount of correspondence but the post received or sent by a prisoner may be checked. Letters must not be read unless it is important for specific reasons.

Prisoners have the right to receive visitors at certain times reserved for visits during weekends and, if there is a special reason, at other times as well. Visits are normally allowed once a week.

In addition to normal visits, a prisoner may be allowed an unsupervised family visit. These are allowed with parents, siblings, children and someone with whom the prisoner has been living in a steady relationship and in the same household prior to imprisonment. The aim is to arrange family visits in the case of long-term prisoners who cannot get permission for home leave. A family visit lasts from two hours to six hours. Prisons have separate home-like decorated rooms. There is a possibility to make coffee or to offer something else. The rooms have toys for the children, a bed and washing facilities.

**Activities:** About half of the prisoners work daily, around half of them in domestic work, estate maintenance or construction and the other half in production. Those in closed institutions are paid a work allowance and those in open institution are paid wages. The principle of prisoners’ work activities is normality, with prison work corresponding to normal work done in society. Prisoners’ work ability and skills have during recent years deteriorated. Consequently rehabilitative and preparatory work has been increased in institutions. In closed institutions prisoners are paid a work allowance for work or studies and no taxes or maintenance is paid. In open institutions the prisoners receive higher wages, out of which they pay normal taxes and food and dwelling costs. For studies or rehabilitation, an expense allowance is paid. The CPT noted that in some prisons a great number of prisoners spent up to 23 hours per day locked in their cells with little to occupy their time. This state of affairs appeared to be related to a significant degree to staff shortages.

Prisons organise educational studies in collaboration with external education institutes. Prisoners receive their certificates from the external institutes and so it is not seen that the studies have been carried out in prison. On certain conditions prisoners may obtain permission from the governor of the institution or the Criminal Sanctions Agency to study outside the institution. In 2002, 116 prisoners were studying outside the institutions. Programmes that aim to reduce the sexual and violent crime are available. In 2001, a total of 3,458 prisoners participated in targeted programmes or other activities of this kind.

**Exercise:** Prisoners have at least one hour’s exercise a day.

**Access to a legal representative:** Pre-trial prisoners are entitled to meet their legal representative in private and to correspond/have telephone contact with him or her. If prisoners wish to protest against their conditions, they must hire a legal representative at their own cost.
Sources
CPT/Inf (2003) 38: Preliminary observations made by the CPT.
CPT/Inf (99) 14: Response of the Finnish Government.
CPT/Inf (99) 9: Report to the Finnish Government.
Finland Parliamentary Ombudsman Act (197/2002).
Ministry of Justice <www.om.fi>

FRANCE

Significant points: The prison population is increasing. In 1992 there were 48,113 prisoners and in 1998 there were 50,744. In April 2003 the prison population was 55,382, giving a rate of 93 per 100,000. Of these 38.3% were pre-trial, 3.9% were female, 1.4% were juveniles and 21.4% were foreign nationals.

The Ministry of Justice is responsible for prison administration and there are 185 penal establishments.

The administration of prisons is generally regulated through the Penal Procedure Code and, specifically, through the regulatory decrees of that code. In principle the provisions of the code apply international standards to prison administration; in practice there has been considerable recent concern over the extent to which those standards are not being met.

In 1999 the ECtHR found in favour of a prisoner (Demirtepe) who submitted that France was in breach of Article 8(1) of the Convention. The prison authorities had opened a number of letters from his lawyers, the judiciary, prison social services and the prison chaplain. The court ruled that this amounted to an interference with his right to respect for his correspondence.

In 2002 the ECtHR ruled that a prisoner’s claim to have been treated inhumanely was valid under Article 3 of the Convention (Mouisel). Despite having chronic leukaemia, the prisoner continued to be held in detention in conditions incompatible with human dignity for a period of over two years. His frequent journeys to hospital for treatment were also noted as raising ‘problems in terms of medical ethics’.

Many of the entitlements and expectations of prisoners are set out in the Guide du détenu arrivant which should be given to each prisoner on arrival in prison. The report of the commission of inquiry into prison conditions, which was set up in response to a Senate resolution of 10 February 2000, suggests that certain of these entitlements are not available in a number of prisons, especially in the case of pre-trial prisoners in the maisons d’arrêt. This report identified a wide range of issues on which the practice in prisons failed to meet the standards laid down in international and national legislation. The report, together with a number of other influential reports at the same time, led to a major review of prison administration by the French government. This has included significant investment both to build new prisons and to replace old, overcrowded prisons which cannot meet appropriate standards of decency.
The new prisons will not come into service until 2006. In the meantime a number of agencies have reported their concerns at a further deterioration in prison conditions and unacceptable standards of hygiene, largely as a result of overcrowding in the system. For example, the NGO, Observatoire International de Prisons, in its report on conditions of detention in France published in October 2003 alleges that the rights of prisoners as defined in law are being obstructed or even suppressed as a consequence of current levels of overcrowding.

In 1987, France launched its program of 21 semi-private prisons. These were built privately with all non-custodial services contracted out but the prison officers remained state employees. There are plans for at least six more semi-private facilities.

In addition to the visits quoted below, the CPT carried out a further visit to France in June 2003, the main purpose of which was to assess the current situation with regard to overcrowding and the regimes offered to prisoners serving long sentences. The report of that visit has not yet been published.

Changes in the arrangements for prison health care and amalgamation with the public health system seems to be giving good results. Prisoners retain the right to vote unless it is specifically removed by the sentencing judge.

**Inspections by an independent body:** The main control over the execution of prison sentences is the Juge d’Application de Peines (JAP). The JAP is required to submit an annual report to the Minister of Justice. The Commission de Surveillance of each prison is required to visit the prison at least once a year and submit a report to the Ministry of Justice.

A recent Senate Commission report (2000) was critical of the quality of external supervision of French prisons. A separate report to the French government recommended strengthening the structure of external control by establishing an office of prison inspectors outside the Ministry of Justice. There is a prison inspectorate in the directorate of prison administration and a separate General Inspectorate of Judicial Services in the Ministry of Justice.

Deputies of the National Assembly and senators may visit any place of detention at any time. A record of all inspection visits should be kept at each prison.

**Separation of prisoners by category:** Pre-trial prisoners are held in remand prisons together with convicted persons serving short sentences (less than one year). For the most part women and young offenders are accommodated in separate wings within the male establishments. There are three female prisons and one separate young offenders’ prison.

**The use of individual and shared accommodation:** Despite the policy that each person should be in an individual cell, serious overcrowding has made this impracticable, especially in the maisons d’arrêt. There has been a significant investment in new buildings in the last few years in order to reach the policy standard. With effect from 15 June 2003 new legislation removed the exemptions which allowed pre-trial prisoners to be required to share cells on the grounds of overcrowding or the physical nature of the buildings. Pre-trial prisoners must now be
placed in an individual cell unless they specifically request otherwise or they have chosen to work and the nature of the work requires them to share a cell. The policy for sentenced prisoners is that they may associate during the day but should be kept in single cells at night.

**Overcrowding and space per prisoner:** There is a requirement to provide 9m² per prisoner but in reality there is significant overcrowding, especially in the *maisons d'arrêt*. For example, there may be as many as four prisoners in a cell of 13m², the space being further reduced because of the need to store equipment and supplies for in-cell work.

The law on the presumption of innocence was expected to have a significant impact on overcrowding by setting stricter limits on the conditions and duration of pre-trial detention. During the first half of 2003, however, the number of prisoners rose by 10% from 55,407 to 60,963. The number of ‘operational’ places at 1 July 2003 is shown as 48,603. Recent amendments to the Code de Procédure Pénale also include a number of measures to extend alternatives to imprisonment and conditional release, each of which should contribute to a reduction in overcrowding.

**Physical conditions:** The Code de Procédure Pénale requires that all prison buildings, and especially cells, should conform to health requirements with particular regard to space, lighting, heating and ventilation. The windows should be large enough to allow prisoners to read or work by natural light and should allow the free passage of fresh air. Artificial light should also be sufficient to allow prisoners to read and work without damaging their eyesight. The report of the CPT visit in 2000 drew attention to some inadequacies, especially in the overcrowded *maisons d'arrêt*.

All prisoners should be offered a shower on arrival in prison. Insofar as is possible they should also be able to shower at least three times per week and after any session of sport and on return from work. There is in-cell sanitation but the report of the CPT visit of 2000 drew attention to the fact that this was not always adequately screened. Prisoners may keep their own clothing subject to the space limitations of the cell.

Bedding should be changed every two weeks as a minimum. The Senate Commission of 2000 found that the practice varied considerably with some prisons changing the bedding each week and others only once a month.

According to the report of the CPT visit in 2000 and the Senate Commission report of the same year cleanliness and hygiene were variable. The *maisons d'arrêt* are likely to have poor, unhygienic conditions as a result of overcrowding. Since the Senate Commission report there has been significant investment in improving the dilapidated condition of the worst prisons.
Food: Prisoners should receive a varied diet which conforms, in terms of quantity and quality, with the normal rules of hygiene and nutrition. The diet provided should take account of the age, health, physical activity and, as far as possible, the religious and philosophical convictions of prisoners. The food supplied to prisoners under 21 years of age is enhanced in comparison with that provided for adults in accordance with nutritional principles. The Senate Commission noted that the food supplied to prisoners was very variable in quality, in quantity and in preparation.

Medical care: From the date of imprisonment all inmates are affiliated to the Social Security general health and maternity insurance scheme. General medical and psychiatric care for each prison are provided through the nearest hospital which is responsible for setting up a consultation and health care unit (UCSA). The principles of the UCSA are based on full access to healthcare and full equivalence in scope and quality with healthcare services provided for the general population. There is a standard minimum protocol for the provision of healthcare services. Rules of professional medical ethics and confidentiality apply in full. The report of the CPT visit in 2000 noted the improvements in healthcare access which these reforms had brought. Although the new arrangements are intended to deliver better healthcare for prisoners, in practice there are reports of difficulties with hospital treatment because of problems with providing police escorts.

Prisoners have the right of access to a doctor of their own choice or to be treated in a private hospital at their own expense, subject to the authorisation of the regional director of prisons.

The standard UCSA protocol includes access to psychiatric care. Voluntary testing is available for TB, hepatitis, HIV/AIDS and sexually transmitted diseases. Support services for alcohol and drug addiction exist but are partly dependent on external organisations. All prisons provide detoxification for drug users, substitution treatment, blood-screening, vaccination, disinfectants for cleaning needles, and condoms.

Rules for specific groups: Specific rules exist in the Decrees implementing the Code de Procédure Pénale with regard to the treatment of prisoners under the age of 21 years old. They give specific details of the cellular conditions and regime under which they may be held. There is a particular emphasis on education and training. There are also specific rules for the treatment of women prisoners.

Disciplinary charges: Decree ‘Marie’ (State Council 17 February 1995) recognised the right of a prisoner to appeal against a disciplinary sanction. Disciplinary procedures were re-defined in the decree of 5 April 1996. A prisoner facing disciplinary proceedings and summoned to a hearing must be informed in writing what he is charged with and allowed at least three hours to prepare his defence which he is entitled to present in person. A prisoner may also be assisted or represented by a lawyer. An appeal against the outcome of any disciplinary hearing must be made in the first instance to the regional director of prison services within 15 days of the publication of the initial decision.

Solitary confinement as a punishment: There are minimum conditions for cells used for solitary confinement with regard to lighting, ventilation, furnishings and sanitation. The report of the CPT visit in 2000 indicated that in each of the four
prisons visited the conditions fell short of the minimum standard in one or more regard. The French government took emergency action in regard to some of the immediate observations of the CPT team.

Requests and complaints: Prisoners may request, orally or in writing, to see a senior officer, the head of the unit or the prison director. They may also ask the director to review a decision and, if necessary, seek further review by the regional director, the director of the prison service and the minister. Prisoners may also write to a range of judicial authorities about any problem concerning the conditions of their detention and/or the execution and application of their sentence.

Communications: Pre-trial prisoners may receive up to three visits per week. The investigating judge (juge d’instruction) may forbid certain visits for a specific period of time, but not those of a legal representative. Pre-trial prisoners may write to anyone at any time unless otherwise indicated by the magistrate in charge of the case. The report of the CPT visit in 2000 drew attention to the general lack of access to telephones for pre-trial prisoners.

Visits (minimum 30 minutes each) are granted at least once a week for convicted prisoners and three times a week for prisoners on remand.

Activities: Work is available on a voluntary basis, either on internal prison support services, such as care-taking, maintenance and kitchen work or for private sector or state-owned industrial organisations working in prisons. Prisoners may also be authorised to work on their own account. Some of the work done by prisoners is cell-based. There is significant variation in levels of remuneration (higher for industrial concessions, especially in the new ‘project 13000’ semi-privatised prisons). A proportion (10%) is kept back for victim compensation and for those who are entitled to maintenance payments from the prisoner. A further 10% is retained for savings as a release fund. Until 1 January 2003 30% was deducted to contribute towards the costs of imprisonment but that has now been withdrawn.

Pre-trial prisoners who request work will normally be allocated work which can be done in the individual cell. If that is not possible they may be authorised to work communally.

There is a wide range of sporting, social and cultural activities. The formal regime also provides extensive opportunities for vocational and professional training and general education. The latter is provided through the national education service as a result of an accord between the Ministry of Justice and the Ministry of Education which established unités pédagogiques régionales (UPR). The prison regulations governing the supplementary reduction of sentences allow this possibility for prisoners who have successfully followed a valid programme of education or training.

Exercise: Daily exercise in the open air is a priority for prisoners under 21 years of age. The Code de Procédure Pénale does not make any other specific reference to exercise in the open air. The standard noted by the Senate Commission of 2000 was for one hour’s exercise in the morning and one hour in the afternoon in the maisons d’arrêt. In a number of cases this was exceeded by a significant margin. The norm for
sentenced prisoners is that they should be unlocked during the day unless they have been specifically placed on a closed cell regime.

**Access to a legal representative:** Pre-trial prisoners may have access to a legal representative every day without any time limit.

**Sources**
- Case of Cherakrak v. France: Application number 34075/96.
- Case of Demirtepe v. France: Application number 34821/97.
- Case of Gombert and Gochgarian v France, 39779/98 & 39781/98.
- Case of Ikanga v. France: Application number 32675/96.
- Case of Mouisel v. France: Application number 67263/01.
- Case of PB v. France: Application number 38781/97.
- Case of Richet v. France: Application number 34947/97.
- Case of Zannouti v. France: Application number 42211/98.
- Code de Procédure Pénale.
- Decree 98-1099 (modifying more than 300 articles in the Code de Procédure Pénale).
- Guide du Détenu Arrivant.

**Addendum: report following a visit carried out by the committee in June 2003.**

The visit had been triggered by concerns at a significant increase in overcrowding, especially in the pre-trial detention houses (maisons d’arrêt), and at the number of suicides occurring in French prisons.

**Overcrowding:** The CPT advocated immediate and drastic action to address the problems of overcrowding in the maisons d’arrêt and particularly urged that consideration be given to alternatives to pre-trial detention. The rate of occupation of the two such prisons visited by CPT was significantly more than 200% of their official capacity. The same situation would appear to obtain in many of the maisons d’arrêt. With effect from 15 June 2003 new legislation should have removed the
exemptions which allowed pre-trial prisoners to be required to share cells on the grounds of overcrowding or the physical nature of the buildings. This was postponed for five years, however, by law 2003-495 of 12th June 2003 addressing road violence. The CPT noted severe problems of over-occupancy of cells beyond their optimal capacity with prisoners being required to sleep on mattresses on the floor. In one of the prisons visited, they reported on poor hygiene conditions and an urgent need to screen off the in-cell lavatories. They also commented on the poor access to natural light in some of the disciplinary cells. There is a concern at the lack of suitable opportunities for employment, education and leisure activities. As a result, apart form their two to three hours of exercise, prisoners are spending the remainder of the day locked in overcrowded cells in very poor conditions. The overcrowding, together with a shortage of staff, appears to have had an effect on prisoners’ contact with the outside world with the prisons unable to meet the minimum standard for visits set out in regulations. In its response to the various issues arising from overcrowding, the French government pointed to its building programme which will provide additional spaces and also replacements for some of the less suitable existing buildings.

Long term prisoners: The CPT also looked at conditions for prisoners serving very long sentences. It noted that the regime for these prisoners had become stricter with fewer opportunities for association. The French government, in its reply, drew attention to the decision to “close the doors” (“fermeture de portes”) as a deliberate response to concerns at growing numbers of prisoners involved in terrorism or organised crime.

Intervention and security teams: In 2003 the prison administration introduced new regional intervention and security teams, the Équipes Régionales d’Intervention et de Sécurité (E.R.I.S.). The CPT expressed concern at reports that these teams are generally hooded when they enter prisons. In its response the French government defended this decision because the teams have been drawn from other prisons and there is a need to preserve their anonymity. The CPT recommended independent monitoring of the interventions by the ERIS teams.

Sources
(Published 31 March 2004)

GERMANY

Significant points: There is no national prison system in Germany and detailed operational information on each state land is difficult to obtain. Each state is responsible for its own system, although there is a federal Ministry of Justice which ensures legality and policy co-ordination. Prison statistics are also collected nationally and show that the prison population is increasing. In 1992 there were 57,448 prisoners, in 1998 there were 78,584. In March 2003 the prison population was 81,176, giving a rate of 98 per 100,000. Of these 20.9% were pre-trial, 4.8% were female, 1.4% were juveniles and 29.9% were foreign nationals. The proportion of foreigners is therefore high. There are 222 penal establishments.
Prisoners retain the right to vote unless it is specifically removed by the sentencing judge.

**Inspections by an independent body:** Each state's justice administration body supervises the prisons in accordance with the Prison Act. These bodies can issue their own state's directives and rules and regulations on implementation and assign their supervisory authority to prison agencies.

Under the Prison Act advisory committees shall also be formed at the prisons. Prison staff are not permitted to be members of the committees. The function of the committees is to co-operate in the structure of the enforcement of the sentence and in the care of prisoners. The co-operation also includes monitoring functions. The prisoners can turn to the members of the prison committee.

**Separation of prisoners by category:** According to the law, a remand prisoner of principle may not be accommodated with other prisoners in the same area. He shall also be kept apart from sentenced prisoners as far as possible. In practice, the competent investigating magistrate orders the necessary measures in detail. There are some separate remand institutions. When such institutions are not available, special sections for pre-trial custody are established in other penal institutions. Exemptions from this separation may only be made if the physical conditions do not permit this.

Women, as a matter of principle, are accommodated separately from men in separate women's prisons. For certain reasons (for example, if there is generally a low number of female prisoners in a state or part of a state) women may be provided with separate sections in men's prisons. Women on remand are also accommodated in special institutions or in separate sections.

Custodial sentences for young offenders are enforced in separate young offender institutions. Under certain conditions young adults (persons over the age of 18 but not yet 21 at the time of the offence) can be sentenced as juveniles, so they serve their sentences in young offender institutions. In addition, imprisonment under general criminal law can be carried out in a young offender institution if the person convicted is under 24 years of age and is suitable for juvenile sentencing. Separation of juveniles from these young adults and older adults within the young offender institutions is not stipulated in law.

**The use of individual and shared accommodation:** Under the Prison Act prisoners are accommodated on their own in their prison cells during the night. Shared accommodation is permitted insofar as a prisoner is in need of assistance or if there is a danger to the life or health of a prisoner. Prisoners may share accommodation if the physical conditions of the institution require this. Accommodation shared by more than eight persons has, however, not been permitted since 1st January 1986.

**Overcrowding and space per prisoner:** There is overcrowding in a number of prisons. The occupancy level of the system as a whole was 103.9% at 31 March 2003 (78,103 places, 81,176 prisoners).

Under the Prison Act the supervisory body shall determine the occupancy level for each institution in such a way that reasonable accommodation is guaranteed. In
addition, the law implies that in principle cells may not be occupied by more persons than permitted. Exceptions are only permitted as a temporary measure and only with the agreement of the state supervisory body.

**Physical conditions:** The law states that the cells must have adequate air and must be provided with adequate heating and ventilation, floor and window area for a healthy life. Further details of this are stipulated in detail in each state's legal provisions, building regulations of the competent building authorities as well as by the state justice administration authorities’ joint recommendations for the building of prisons.

**Food:** Quality is similar to external conditions. Special diets (health and religious reasons) are catered for. Under the Prison Act the composition and nutritional value of prison food have to be monitored medically. Special diets may be permitted on medical advice. Prisoners must be enabled to follow the dietary requirements of their religious community.

**Medical care:** Files are kept confidential and are not available to non-medical staff. The initial medical examination must be effected as soon as the prisoner has been admitted to the institution; the provisions in respect of the medical care in the Prison Act govern the rights of the prisoner, especially his rights to medical examinations and preventive medical care, medical treatment and provision of relief.

The provisions regarding health care in the Prison Act ensure that prisoners receive medical care to the equivalent standard of that received by the general population.

The federal states each have their own regulations for the treatment of addicts. Many carry out detoxification measures. In all of the states it is possible under medical supervision to reduce the dose gradually within the framework of general medical guidelines. HIV/AIDS testing is conducted on a voluntary basis. HIV positive prisoners are not segregated.

The CPT visited in 2000 and raised concerns about the treatment of a prisoner who had tried to commit suicide in a prison’s reception area. He was placed in a security cell and his hands and feet were strapped to the bed. He was kept in that situation for about 36 hours, observed by prison personnel and occasionally visited by a psychologist. The CPT strongly criticised this method of dealing with a suicidal prisoner. They also noted that the Prison Law of Germany allowed instruments of restraint to be used for days at a time and stated that using restraints for that length of time can never be justified. They also recommended that every use of instruments of restraint should be recorded in a register.

**Rules for specific groups:** The enforcement of custodial sentences for young offenders is carried out in young offender institutions, if possible, in residential groups/same-aged groups. Pre-trial custody is also enforced where possible in a separate institution or in a separate section or in a juvenile detention centre.

Provision should be made in women's prisons and sections so that mothers can be accommodated with their children. Currently there are eight women's prisons with mother and child sections.
Discipline: In 2000 the CPT noted that Section 88 of the Prison Law (Strafvollzugsge-setz) still made provision for the application of instruments of restraint for a period of days at a time. The CPT reiterated the view already expressed in 1996 that the continuous application of instruments of restraint for a period of days can never be justified and it recommended that Section 88 should be amended accordingly.

Solitary confinement as a punishment: Sentenced and remand prisoners can be subjected to up to four weeks confinement. In the case of remand prisoners, the daily sojourn in the open air can be withdrawn as a disciplinary measure for up to one week.

Requests and complaints: There are no restrictions on prisoners making requests or complaints every day to the director of the prison/penal institution. Prisoners have the option of making a complaint to the prison director against measures of the institution's management or complaining about the conduct of an official. Under the law, an application for a judicial ruling can be made.

Communications: Remand prisoners may receive visitors with the consent of the investigating magistrate or the prosecutor authorised by him. Permission for visits is granted in writing. The entitlement is for a visit lasting 30 minutes, if the judge or prosecutor does not specify anything to the contrary.

Remand prisoners also have the right to correspondence. They may receive and send letters without restriction so long as the investigating magistrate does not decide to the contrary. Correspondence is monitored by the investigating magistrate or the prosecutor authorised by him with the exception of letters to parliamentary representatives of the Federal Republic and of the individual states (as long as the letters are sent to them and correctly addressed) and also letters to the European Commission for Human Rights.

Correspondence from the remand prisoner to his defence counsel does not require any special permission and is permitted in principle without restriction and without monitoring. There are only restrictions in proceedings on account of the formation of criminal associations.

The head of the institution determines the regular visiting days and visiting hours. Visits outside of these days and times are only permitted in exceptional cases.

Activities: Work is available for around 50% of all prisoners. Remuneration of sentenced prisoners for work done by them is effected partly in monetary terms and partly in non-monetary terms. The non-monetary part comprises an entitlement to additional time off from work of up to six calendar days per year. Assessment of the remuneration is effected on the basis of nine per cent of the standard level of social security insurance in the respective calendar year.

In some of the States regulations allow for those with employment to keep their jobs by immediate transfer on sentence to an open prison from where they go out to work on work release. Work release is widespread. The German Prison Law (Article 71) gives prisoners the right to social support to help solve personal problems.
In July 1998 the Federal Constitutional Court in Germany ruled that prisoners should be paid on a basis that aided their resocialisation and therefore at a level higher than current practice of five per cent of the average wage. By December 2000 prison wages had to be increased. The finding was based on evidence put to the Court by experts about the contribution of proper wages to reintegration. The Court also indicated that it was desirable for prisoners to be incorporated into the social insurance and pension schemes of the state.

**Exercise:** Sentenced prisoners who do not work in the open air must be able to spend at least one hour in the open air if the weather conditions at the designated time permit this. The same ruling applies to remand prisoners.

**Access to a legal representative:** Pre-trial prisoners may communicate with their defence counsel without special permission and without restriction and supervision.

**Sources**  
National Prison Administration.  
Strafvollzugsgebetz (German prison law).  

**GREECE**

**Significant points:** The prison population is increasing. In 1992 there were 6,252 prisoners, in 1998 there were 7,129. In December 2003 the prison population was 8,841, giving a rate of 83 per 100,000. Of these 28.5% were pre-trial, 4.9% were female, 6.9% were juveniles and 42.4% were foreign nationals.

The Ministry of Justice is responsible for prison administration and there are 25 penal establishments.

In 2001 the CPT was critical of the weak legal basis for imprisonment and recommended that detailed standards on conditions of detention be produced for all law enforcement agencies in Greece, taking fully into account the criteria advocated by the CPT.

In 2000 Amnesty International noted that conditions in some prisons and detention centres were so poor as to amount to cruel, inhuman and degrading treatment and in 2002 the US State Department noted that overcrowding and harsh conditions continued in some prisons. In 2003 Amnesty International noted reports of complaints by 18 people suspected of being members of the ‘17 November’ group about their conditions of detention and restricted access to lawyers.

In 2001 the ECtHR found inhuman and degrading treatment in the case of a remand prisoner held in a cell with no ventilation and no window (Peers). The prisoner also had to use the toilet in the presence of the other prisoner in the cell and be present
when the toilet was used by the cellmate. The Court concluded that these conditions 'diminished Mr Peer’s human dignity and gave rise in him to feelings of anguish and inferiority capable of humiliating and debasing him'.

There was controversy in 2003 after a number of anti-capitalist protesters were arrested after disturbances at the EU summit in Thessaloniki. They were held in Athens's maximum security Korydallos Prison and later claimed that police and prison officers subjected them to violence. Following a 53-day hunger strike, they became seriously ill but were reportedly denied transfer to hospital. A British prisoner and four others were treated in the prison hospital. According to the media, a public prosecutor ordered doctors to force-feed the hunger strikers but doctors treating the suspects said the measure was illegal and unethical and refused. Following pressure from the Thessaloniki Prisoners' Solidarity Campaign and Amnesty International, the suspects were eventually transferred to civilian medical facilities pending trial.

Prisoners retain the right to vote in elections.

**Inspections by an independent body:** Regular inspections are carried out by the Body of Inspection of Penitentiary Establishments and Police Stations. In 2001 the CPT called for compliance with standards and instructions regarding conditions of detention to be effectively monitored.

**Separation of prisoners by category:** Pre-trial prisoners are not always detained separately from sentenced prisoners.

**The use of individual and shared accommodation:** Approximately 3% of the prison population is held in single cells. These are usually long term or life sentence prisoners. In some prisons there are cells for two to three people, and in the majority of prisons cells hold between five to twenty people. Seventeen new prisons are being constructed in the next five years and all cells in these prisons will be designed to hold two people.

**Overcrowding and space per prisoner:** There is overcrowding in both the pre-trial institutions and institutions for sentenced prisoners. The prison population at 1 December 2003 was 8,841 with the official capacity standing at 5,584, giving an occupancy level of 158.4%. The Director General of the Greek Prison Service attributes this overcrowding to the large number of foreign prisoners being held (3,748 at 1.12.03). The Penitentiary Code (2776/1999) states that each prisoner should have 6m² of space.

**Physical conditions:** All prisons have central heating and a temperature consistent with the normal temperature in living conditions in the community outside. All prisons have access to good natural light and ventilation. This is specified in the Penitentiary Code and is confirmed by the CPT report of the prisons visited in 2001.

However in the case of Peers v. Greece the ECtHR found that, for at least two months, the applicant had to spend a considerable part of each 24-hour period practically confined to his bed in a cell, with no ventilation and no window.
The sanitary conditions for prisoners are considered adequate for every prisoner, with all prisoners able to have a bath or shower every day. This is confirmed by the CPT report of 2001. Pre-trial prisoners are allowed to wear their own clothes, which they can wash and dry within the prison, or give to their family for cleaning, or send to external launderettes at their own expense.

Prison regulations require that all parts of a prison should be properly maintained and kept clean at all times. The CPT reported in 2001 that living areas were reasonably clean in most of the prisons they visited. However, in one prison they found that half of the cells on the ground floor of the main accommodation building were in a very bad state of repair and hygiene.

**Food:** The quality and quantity of food is close to average standards in communal catering outside and prisoners are given a balanced diet including meat, fruit and vegetables. Special diets are available for those who need them for health or religious reasons. The CPT reported in 2001 that in one prison food distribution took place in the open air under precarious hygienic conditions.

**Medical care:** It is reported that all medical examinations are conducted out of the hearing and out of the sight of prison security staff. The standard of medical care is equivalent to that received by people in the outside community.

Prisoners are given a medical examination on the day after they enter detention. If they are found to be suffering from a disease, the appropriate treatment is prescribed or they are referred to a specialist or, if necessary, a special hospital. Prisoners are then examined at six-month intervals. They can consult a doctor of their choice whenever they wish, but at their own expense.

There is no treatment programme available for prisoners who have an alcohol problem/dependency. Detoxification and drug-free units are available in some prisons. There is no substitution treatment and no provision of disinfectants or condoms (2001 data). HIV testing is voluntary and prisoners with HIV are segregated. Prisoners are not tested for tuberculosis and there is no treatment programme for prisoners suffering from tuberculosis. The Director General reports that ‘all ill prisoners are treated in the General Hospital of Prisoners. HIV positive prisoners are in the same hospital receiving better conditions of living and treatment.’

**Rules for specific groups:** Young people are kept in a Special Penitentiary Establishment for Juveniles. There are three of these establishments, one of which is a rural establishment. For prisoners over the age of 67 each day of imprisonment is calculated at two days of their sentence. There is a female prison in Athens where mothers can keep their child with them until the child is three years old in a separate department.

**Disciplinary charges:** It is reported that all prisoners against whom a disciplinary charge has been made have the opportunity to speak in their defence and to appeal against the decision.

**Solitary confinement as a punishment:** A prisoner can be held in solitary confinement for up to 10 days. This applies to both sentenced and pre-trial prisoners.
Prisoners in disciplinary confinement are not allowed visits but are allowed at least one hour’s exercise a day in the open air. They are allowed a mattress and bedding and access to reading matter. All prisoners in solitary confinement are provided with sanitary facilities. They are visited by a medical officer when it is necessary, if informed by the guard that such a visit is needed.

**Requests and complaints:** There are no restrictions on prisoners making requests or complaints. The Director will hear requests or complaints from prisoners whenever they ask. Every prisoner can make a request or complaint by letter to the appropriate authorities without its content being controlled. Letters can be posted or passed to the Director.

**Communications:** Pre-trial prisoners are entitled to the same rights to visits and communication with family members as sentenced prisoners, except that they are allowed visits at least twice a week. Sentenced prisoners are allowed visits at least once a week. There is no category of prisoner allowed visits less often than once a month.

**Activities:** Work is available for approximately 50% of sentenced prisoners, and for 50% of pre-trial prisoners. One day of work counts as two days of imprisonment. In 2001 the CPT found that for many prison work involved only a small part of the day or occasional work.

Other activities available include education, further education, sports activities and reading. The CPT found that the vast majority of inmates held in the four establishments visited spent the bulk of their day in complete idleness; their main distractions were to watch television in their cells/dormitories and to associate with fellow prisoners. A large number of prisoners interviewed in the course of the visit complained of this situation; many of them also resented the fact that they were not in a position to earn remission through work.

**Exercise:** Both sentenced and pre-trial prisoners are offered almost seven or eight hours of walking or suitable exercise in the open air each day. This is in accordance with the Greek Penitentiary Code.

**Access to a legal representative:** It is reported that all prisoners, including pre-trial detainees, have access to a lawyer whenever needed. If they cannot afford a lawyer one will be provided for them. This is the case whether the prisoners are preparing their defence or drawing attention to the conditions of imprisonment in which they are being held. In 2001 the CPT recommended that clear instructions be issued to law enforcement officials with a view to ensuring that the right of access to a lawyer becomes fully effective in practice from the outset of custody.

**Sources**
Case of Peers v. Greece: Application number 28524/95
Direction General de l'Administration Penitentiaire.
Penitentiary Code.
**Summary record of the first part of the 463rd meeting**, UN Committee against Torture, Greece, 9 May 2001.

**HUNGARY**

**Significant points:** The prison population is increasing. In 1992 there were 14,810 prisoners, in 1998 there were 13,405. In November 2003 the prison population was 16,700, giving a rate of 165 per 100,000. Of these 22.4% were pre-trial, 6% were female, 0.9% were juveniles and 4.6% were foreign nationals. The new criminal code allows for more severe sentencing for drug-related crime so prison numbers may increase further.

The Ministry of Justice is responsible for prison administration and there are 33 penal establishments.

A new Penal Executive Code was due to come into force in 2003. The education system has been improved recently, with contacts having been established with the Ministry of Education. There has been a large expansion in religious activities in the prisons, with full-time priests for sentenced prisoners and part-time priests in pre-trial institutions. The Hungarian prison system has recently come into line with WHO guidelines by abandoning the practice of routinely testing all prisoners for HIV but HIV infected prisoners are still segregated in spite of a strong recommendation by the CPT in its 1999 visit that segregation should end.

In June 2002 the Hungarian Helsinki Committee (HHC) and the National Prison Administration concluded an agreement of co-operation whereby the HHC can monitor the treatment of all prisoners in the penal institutions.

The main problems facing the prison administration are the serious overcrowding both in pre-trial institutions and in institutions for sentenced prisoners, the need to modernise old buildings, a shortage of prison staff, the need for further improvements in staff training and the need for improved suicide prevention measures.

Prisoners do not retain their right to vote.

**Inspections by an independent body:** Ensuring that penal institutions function within the law is the responsibility of the Office of the Public Prosecutor. It is reported that the prosecutor visits once a month to assess the legality of pre-trial detentions and prison sentences. In order to fulfil this task legal investigations may be held, official documents examined, prisoners interviewed, and consideration given to complaints about decisions on sentence enforcement matters. The prosecutor also examines the prison menus and takes an interest in other aspects affecting the proper treatment of prisoners. A report is prepared and copies go to the prison director and the national prison administration.

Another source of independent inspection is the Parliamentary Commissioner for Human Rights or Ombudsman. Cases dealt with by the Commissioner have focused on ensuring that prison sentences have been enforced in a lawful manner. The
Commissioner’s recommendations have also been concerned with the further development of relevant statutory regulations.

Separation of prisoners by category: The prison administration reports that untried prisoners are always detained separately from convicted prisoners, women prisoners separately from men, but that juveniles under 18 are not always held separately from adults.

The use of individual and shared accommodation: Very few prisoners are housed in single cells. Cells in the older prisons were designed for single occupancy but are frequently occupied by two prisoners. Most prisoners are in rooms for eight to twelve people. The institutions that were not designed as prisons have rooms of varying sizes, including some holding over 30 prisoners. The largest number of prisoners held in one room is said to be 40.

Overcrowding and space per prisoner: Overcrowding exists in accommodation for pre-trial detainees and those for sentenced prisoners. The standard specification of the amount of space considered necessary for each prisoner, established by regulations but not by legislation, is 3.5m². The CPT has recommended that this be increased to 4m². The capacities of the penal institutions are based on the standard specification. The occupancy level of the system as a whole was 147.7% at 20 November 2003 (11,310 places, 16,700 prisoners).

Physical conditions: The CPT was critical of the lighting and ventilation at one prison they visited in 1999 and the ventilation in another. The government response pointed out with regard to the first prison that access to natural lighting in the cells was a design problem; steps had been taken to improve artificial lighting. The second prison was a quasi-monument and so it was not possible to enlarge the windows.

Sanitary arrangements and arrangements for access are reported to be adequate. Every prisoner is able to have a bath at least once a week. Pre-trial detainees are allowed to wear their own clothing if it is clean and suitable. Every prisoner has a separate bed. Bedding is reported to be changed every two weeks and sometimes every week.

Food: The quality and quantity of food are reported to be close to average standards in communal catering outside. There are however said to be insufficient vitamins to constitute a balanced diet. Special diets are provided for those who need them for health or religious reasons and for vegetarians.

Medical care: It is reported that health care in prison is sometimes better than in the community in that it is more accessible and prisoners do not have to pay for medicines. There are also more treatment possibilities. Prison health care is funded from the central prisons budget and from public health insurance. Free citizens pay public health insurance through their employment pay, while prisoners, like students, are treated as if they have paid but do not do so. Foreign prisoners receive treatment free of charge while they are in prison but must pay for continuing treatment that is needed after release.

There is a forensic psychiatric unit (IMEI) within the grounds of Budapest Central Prison which is used for neurological and psychiatric treatment and for the
observation of those suspected of being mentally ill. Court orders for mandatory psychiatric treatment are also carried out at the IMEI, which has 311 beds. There are another 80 beds in an after-care unit for those with degenerative diseases and others who will need permanent medical supervision.

Some programmes are available for alcohol-dependent prisoners. The administration is of the view that there is not a drug problem in the prisons. Some prisoners receive individual drug therapy and others are permitted to go outside the prison for treatment, but the prison administration wants to develop programmes for drug addicts which can be conducted within the prisons.

In accordance with WHO guidelines there is now no compulsory testing for HIV/AIDS, but it is understood that prisoners who are HIV positive are segregated from others. Tuberculosis is a problem in the Hungarian prison system and the numbers are growing. The incidence in prisons is at least four times higher than in the community outside. Specialist treatment is provided in the central prison hospital.

**Rules for specific groups:** Special arrangements are made for young prisoners in that there is one educator to 20 juveniles compared with one to 100 for adults. Young people may remain in institutions for juveniles until they are 21.

There are special rules to protect women, concerning pregnancies, abortions, health and safety at work. The use of physical restraint equipment in the case of women is much more restricted than in the case of men.

**Disciplinary charges:** It is reported that all prisoners against whom a disciplinary charge is brought are given the opportunity to be heard in their defence. In the course of the proceedings they may cross-examine witnesses and freely express their position. If legal counsel is used, the attorney is also accorded these rights. Likewise prisoners may appeal against any punishment imposed.

**Solitary confinement as a punishment:** The maximum length of time that a sentenced adult prisoner can be held in solitary confinement is 30 days (if in maximum security conditions), 20 days (if in medium security) and 10 days (if in minimum security). Prisoners in solitary confinement are not allowed visits, but they are compensated for missed visits after the solitary confinement has ended. They are allowed normal daily exercise and they have a mattress and bedding on the bed.

**Communications:** In the case of pre-trial detainees the prosecutor decides who can visit but cannot forbid visits from close family members, who are entitled to visit at least once a month for 30 minutes. In the case of sentenced prisoners the law specifies that they can be visited at least once a month for 30 minutes but in practice visits are for one to two hours. There are no sentenced prisoners who are allowed visits less often than once a month.

**Activities:** At the beginning of 2001 work was available for 58% of the sentenced population. Few pre-trial detainees have employment but some simple work has been created to occupy them and enable them to earn a little money. Wages amount to about one third of the minimum wage of free workers. The time prisoners spend at work does not count for pension entitlement, but in other respects rights attached to
work are similar to the general rules of labour law. Prisoner’s working hours are the same as those of other workers, as regulated by labour law, generally 40 hours a week. A prisoner is also entitled to 20 days paid holiday each year.

Apart from work, activities available to occupy sentenced prisoners during a normal day include education and vocational training. Some 2,500 prisoners are involved in education and vocational training. Sentenced prisoners spend eight to nine hours out of their cells/rooms if they have work; otherwise four to five hours on average. Pre-trial detainees have limited opportunities for sport or educational activities.

**Exercise:** Sentenced prisoners and pre-trial detainees are reported to have at least one hour a day of walking or suitable exercise in the open air.

**Sources**

Hungarian Helsinki Committee <www.helsinki.hu>

**IRELAND**

**Significant points:** The prison population is increasing. In 1992 it was 2,155. In 1998 it was 2,648 and on 10 September 2003 it was 3,366, giving a rate of 85 per 100,000. Of these 15.9% were pre-trial, 3.0% were female, 1.5% were juveniles and 8% were foreign nationals.

Some human rights concerns have been reported. The CPT noted that during its 2002 visit some interviewed prisoners complained of being physically abused. It also concluded that the treatment of some mentally ill prisoners in three Irish prisons could be described as ‘inhuman and degrading’. The prisoners concerned were being kept in dirty padded cells, with a disposable chamber pot, a mattress and dirty blankets. Some were wearing only underwear or were naked. The Irish Penal Reform Trust reported: ‘...78% of those detained in strip/padded cells (solitary confinement) were mentally ill/disturbed. These cells had become a substitute for appropriate medical treatment. The longest number of consecutive days in solitary confinement recorded was 18 days. One prisoner spent 25 days of a 30 day period in a strip cell (solitary confinement)’ and that ‘suicidal prisoners are frequently put into padded or strip cells’. In 2002 the Minister of Justice declared the use of padded cells prohibited.

In order for an NGO to undertake prison inspections, the Minister of Justice has to give authorisation (Article 119(1) of the Prison Rules). There has been recent controversy over the refusal of the state to allow Amnesty International and the Irish Penal Reform Trust access to prisons.

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Inspections by an independent body: The Office of the Inspector was established in February 2002. The first Inspector of Prisons and Places of Detention was appointed in April of that year. A statutory Visiting Committee is appointed for each prison under the Prisons (Visiting Committees) Act, 1925. Committees are required to report any urgently required repairs and abuses they find to the Minister for Justice, Equality and Law Reform and are required to submit an annual report for publication. The system is not regarded as very effective.

The Human Rights Commission can inspect prisons. According to its recent strategy document, the Commission plans to ‘work to ensure compliance with international standards of imprisonment [and] take an active part in the debate on conditions in our prisons and the rules by which they should be governed’. More specifically, the Commissioners aim to ensure the completion of the new prison rules to ‘establish the right of access to adequate health services for prisoners and staff’ and to ‘urge the establishment of an independent mechanism for dealing with complaints within the prison system’.

The separation of prisoners by category: Women prisoners are kept separately from men. In general, 16-21 year old male prisoners are held separately from adults, although there have been instances where young prisoners have been held in adult prisons.

Overcrowding and space per prisoner: According to the Prison Service Annual Report 2002, overcrowding has ‘largely been resolved’ although ‘most prisons are currently operating at or near full capacity’. The average daily prison population for 2002 was 3,165. In November 2002, there were 3,511 spaces available. Between 1996 and 2001, 1,200 new prison places were built.

In 2002 the CPT found that one prison was operating above its capacity, and a number of prisoners were being accommodated in rooms in the infirmary, many of them sleeping on mattresses placed directly on the floor. The delegation was told that, on occasion, for want of space, newly arrived prisoners had also been accommodated in padded cells.

Physical conditions: The 2002 CPT delegation found that despite some improvements, ‘access to natural light in the ground floor cells remained very poor’ in one prison. In 2003 the inspectorate found that at one prison ‘all [staff] agreed of the need for major structural alterations to be carried out…the cell windows were too small to allow for natural light’. In another, it was noted that ‘most cells benefited from very little natural light and had poor artificial lighting’.

The Prison Service states that prisoners are ‘entitled to wash daily and shower at least once a week’. According to an inspection report, ‘prisoners receive two changes of underwear, socks, shirts etc per week and have a shower at least twice per week’.

The Inspector has reported that sanitary arrangements in the prisons of Ireland are unacceptable and has also called the process of slopping out ‘a degrading experience’ and ‘deplorable’. In his first Annual Report he recorded that in several prisons ‘the sanitary facilities are appalling’. 
Despite recommendations made by the CPT in 1999 regarding the refurbishment and modernisation of Dublin’s main prison, ‘in-cell sanitation was still not available in most parts of the prison’ by 2002. The same situation was found elsewhere. After its 1993 visit, the CPT made clear that requiring prisoners to use chamber pots or buckets ‘slop out’ in the morning was unacceptable. In 1995 the Irish authorities indicated that it ‘might take seven to eight years to achieve’ the eradication of this practice.

Inspectors found that one of the four prisons inspected was ‘impeccably clean’. In others they found very poor standards of cleanliness.

**Food:** The Prison Service recognises that prisoners ‘must be given a healthy, well balanced diet’. In recent years, the Prison Service has been engaged in a programme of development and quality assurance for catering in conjunction with the Food Safety Authority of Ireland. The Service has introduced an independent audit of prison catering. The first of these was carried out in 2001 and published in May 2002.

**Medical care:** Prison health care is funded and organised separately from general health care. Part-time doctors provide primary medical services in all prisons. Medical orderlies assist doctors and qualified nurses have been introduced into a number of prisons over the last two years. There are no hospital facilities in any Irish prison. When in need of secondary care, prisoners are transferred to outside hospitals on the recommendation of a prison doctor. Outpatient treatment is also provided by local hospitals. Visiting psychiatrists employed by the health boards provide psychiatric treatment. A nurse officer or medical orderly trained to give prescriptions and medication sees all new prisoners. The prisoners are examined later by a doctor.

The CPT observed important shortcomings as regards the health care services of the prisons visited. In 2002 it found improvements in certain areas but noted that ‘further action is required in order to meet the objective of equivalence of care’. The information gathered during the 2002 visit to Ireland indicated that ‘the records made by prison doctors of injuries displayed by prisoners, including at the time of their admission to prison, were often imprecise; further, the statements of the prisoners concerned were very seldom noted down’.

In 2002 the inspector reported that prisoners ‘do not generally have confidence in prison health care services’. In one prison in December 2002, the inspector reported that ‘there was some concern [from the doctor] about the confidentiality of the [medical] files’. Whilst in another, ‘the presence of prison officers during consultation between the doctor and prisoner about the prisoner’s medical problems was felt to violate the prisoner’s privacy’. The CPT heard in two prisons that medical consultations took place in the presence of prison officers.

Services for drug users include detoxification, methadone maintenance, education programmes, an information forum involving community-based agencies, addiction counselling, drug therapy programme and drug-free areas. Methadone substitution programmes operate in five prisons. Prisoners previously on a methadone maintenance course in the community are usually continued on this course. In 2002 the CPT noted that substitution programmes were not accompanied by adequate medical care/supervision, and prisoners with drug problems were not being offered
psychological support. The Prison Service is currently drafting new policy to introduce mandatory drug testing for all prisoners and increase other measures to eradicate drug use in prisons.

Counselling is provided by the Probation and Welfare Service both pre and post HIV tests. The inspector heard complaints from prisoners in one prison in 2003 however, about ‘the inhumane way in which diagnoses of HIV have been given to prisoners, without counselling.’ It was claimed that ‘doctors make HIV diagnosis announcements and return prisoners straight back to cells’.

**Disciplinary charges:** Prisoners charged with a disciplinary offence are given the opportunity to hear the charge against them and present their defence. Visiting Committees have power to deal with serious breaches of discipline. Disciplinary punishment is mainly governed by the 1947 Prison Rules. Each juvenile institution has its own guidance document on disciplinary matters.

The Prison Rules outline the types of offences attracting punishment. However critics argue that some of these offences are vaguely worded leaving them open to wide interpretation and therefore abuse. For example, a prisoner must not make ‘any unnecessary noise’, or gives ‘any unnecessary trouble’ (Rule 68(10)) and must not commit ‘any nuisance’ (Rule 68(13)). Similarly, the punishments possible for infringements are insufficiently clear. They allow for more than one punishment to be imposed for the same offence. These include close confinement, restriction of diet, forfeiture of remission of sentence and the suspension of privileges. Also the prison rules oblige a prisoner to attend the religious services of his religion (Rule 48) which he must specify upon reception. Failure to attend services is officially a disciplinary offence (Rule 68(1)(4)).

**Solitary confinement as a punishment:** The government health review group report found that official procedure and record taking for admission to solitary confinement was lacking. Forty per cent of entry/exit dates were found to be missing and in the main chief officers rather than a medical officer made the decision regarding entry into a padded/strip cell. Visits by medical staff to those in solitary confinement, although reasonably frequent, were usually of a cursory nature.

**Requests and complaints:** Prisoners who wish to complain may approach staff, the governor, a Visiting Committee, the Minister’s departmental staff and the courts. They might also write to the European Court of Human Rights or the CPT. An NGO reports that in practice, the Visiting Committee is the only body to which individual prisoners can make a complaint. In 2002 the CPT found that the records examined in one prison showed that inmates who did complain of having been physically ill-treated often subsequently withdrew those complaints and that prisoners appeared to have very little confidence in the complaints system. In 2002 the CPT heard complaints in two prisons that prisoners’ correspondence with outside bodies and lawyers was subject to control and that prisoners therefore had reservations about contacting such bodies. The CPT noted that some prisoners’ letters to the Committee bore the stamp ‘censored’ whilst some had apparently been posted but never received.

**Communications:** Prisoners have the right to receive visits, correspondence and to make telephone calls. In 2002 the inspectorate found in one prison that there was
‘…one telephone for over 40 prisoners and this caused difficulties at times’. At one prison in 2002, the CPT found that ‘visiting arrangements remained unsatisfactory […] the visiting facilities offered no privacy and became very noisy when several prisoners received visits at the same time. In short, prisoners and their visitors are not yet able to meet under conditions conducive to the maintenance of positive relationships’.

**Activities:** The governor of each prison is under a duty to promote the useful employment and industrial training of prisoners. It is reported that after arrival, each prisoner is seen by a teacher accompanied by an assistant governor in charge of work / training or a chief officer / industrial manager. After discussion, staff try to match the skills and experience of the prisoner with workshop / education / catering opportunities. Most prisoners are engaged in work activities during the day.

Prisons work in partnership with a range of educational agencies to provide a broad programme of education. The service has the equivalent of 181 full-time teachers from Vocational Educational Committees. Other contributing agencies include the Public Library Services and the Open University, which provides degree courses. The Arts Council provides writers' workshops. Prisoners have the right to education and over 50% voluntarily take part in education programmes.

**Exercise:** Prisoners are entitled to daily exercise in the open air for one hour or more.

**Access to a legal representative:** Prisoners have the right of access to a legal representative. The CPT and others have expressed concern over a lack of confidentiality of legal correspondence and telephone calls.

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ITALY

**Significant points:** The prison population is increasing. In 1992 there were 46,152 prisoners, in 1998 there were 49,050. In September 2002 the prison population was 56,574, giving a rate of 100 per 100,000. Of these 30.1% were pre-trial, 4.4% were female, 0% were juveniles and 30.1% were foreign nationals.

The Ministry of Justice is responsible for prison administration and there are 205 penal establishments.

The core law of the Italian Republic on prison administration and the execution of sentences was introduced on 26 July 1975 (Law 354/75 published in the *Official Gazette* on 9 August 1975). In accordance with Article 87 of the law, regulations concerning its implementation were issued in a presidential decree (DPR 431/1976). A further presidential decree (no. 230 of 30 June 2000) has introduced significant amendments to the detailed regulations implementing Law 354/75 and replaces DPR 431/1976.

In recent years the significant increase in prisoners has led to levels of overcrowding which, combined with the poor conditions of many old prisons, has meant that many of the standards required by law are not realised. The CPT noted this in the report published following its inspection in 2000. The NGO *Associazione Antigone* produced a critical report in 2000. Following protests by prisoners in almost half of Italy’s prisons, MPs from the Radical Party undertook an inquiry into the prison system in August and September 2002. Their subsequent report indicated a system in crisis.

The 2003 US State Department report on human rights practices noted that ‘overcrowded and antiquated prisons’ continued to be a problem and that in the first six months of the year 23 prisoners committed suicide. It reported that in August, Parliament approved a Clemency Law that reduces by two years the sentences of those convicted of minor offences who had served at least half of their sentence. Approximately 6,500 prisoners were expected to be released early under the provision.

The recent modification of Article 41-*bis* of the prison law, which makes permanent the emergency provision for severe restrictions on the conditions of detention of those accused or convicted of organised and terrorist crimes, has provoked significant concern since its amendment in December 2002. Article 41-*bis* imposes particular limits on the time prisoners may spend out of cell, on the activities in which they can engage and on their freedom to communicate with other prisoners and with those outside the prison. For example, prisoners have no physical contact with their visitors. In the summer of 2002, 645 prisoners were subject to these restrictions.

The ECtHR has ruled several times against Italy. For example, in the cases of Labita (2000) and Indelicato (2001) it found failings in terms of Article 3 of the Convention. In the Indelicato judgement it ruled on the absolute prohibition on torture and inhuman punishments or treatments, even in cases of emergency as a result of the
fight against terrorism and organised crime. On the violation of Article 8 of the Convention, the Court gave its ruling in various cases regarding detention under the 41-bis system. In the case of Messina (2000), the Court found Italy guilty of a violation of Article 8 because of restrictions on correspondence and of Article 13 in that the plaintiff was unable to make an effective appeal against decisions to extend the 41-bis restrictions.

**Inspections by an independent body:** There is a system of supervisory magistrates who are required to ensure that prison sentences are carried out in accordance with the law. Supervisory magistrates should visit the prison (see the section on Complaints below). A record should be kept of visits by the supervisory magistrate together with a note of the significant issues that arose during the visit. The government also permits visits by NGOs, members of parliament and the media.

**Separation of prisoners by category:** Women are required to be held in separate prisons or separate wings within mixed prisons. In practice most female prisoners are held in separate wings in prisons which mainly hold men. Pre-trial detainees are held in remand prisons which also hold substantial numbers of sentenced prisoners. Young prisoners between the ages of 18 and 25 should be held separately from adults.

**The use of individual and shared accommodation:** Prisoners are held in single or multiple occupancy cells. In principle double occupancy is avoided wherever possible. Pre-trial prisoners are to be held in single cells unless the particular circumstances of the prison prevent this.

**Overcrowding and space per prisoner:** There appears to be a Ministry of Health recommendation that each prisoner should have a living space of 9.8m²; this is referred to in the report of the CPT visit of February 2000. The same CPT report notes significant overcrowding in the remand prisons which were visited in 2000 with, for example, as many as five prisoners being held in a cell of 12m². There has been significant new prison building during the period from 1996 in an attempt to address overcrowding according to the government response to the CPT visit of February 2000. There have also been various initiatives introducing alternatives to imprisonment which were also designed partly to address prison overcrowding.

The Department of Penitentiary Administration’s figures for June 2002 show a regulation capacity of 42,212, a tolerable capacity of 59,191 and an actual capacity of 56,277 (‘tolerable’ is not defined). A separate source shows that the remand prison in Bologna was holding 922 prisoners against an official capacity of 450 and that, in some cases, three prisoners were being held in a cell of 9m². The figures for June 2003 show a similar pattern with 21,000 prisoners (37.3%) being held in prisons which had exceeded their tolerable capacity, in some cases by a significant margin.

**Physical conditions:** Cell windows should allow direct light and ventilation without obstructive screens. Any obstructive screens which may be justified on the grounds of security should be positioned in such a way as to allow the direct passage of air and light. However, serious concerns have been expressed with regard to the conditions of detention of prisoners held under Article 41-bis (terrorism and organised crime). The triple glazing and security screens severely restrict the amount of natural light and ventilation in the cells.
The Prison Act states that all cells should be equipped with toilet, washbasin and shower in a separate alcove/annexe; for women prisoners these facilities should also include a bidet. It also states that these facilities should be provided within five years of the decree coming into force. In the meantime any facilities which are inside a cell should be appropriately screened.

All parts of the prison are required to be maintained to suitable standards of hygiene. Prisoners are required to clean their own cells. If prisoners are not physically fit to clean their own cells cleaning will be carried out by prisoners employed in the general service of the prison. The general service teams also clean communal areas of the prison. In all cases the prison directorate is responsible for providing cleaning materials and equipment. The CPT in its visit in 2000 noted that there was a shortage of cleaning materials and a number of areas failed to meet satisfactory standards of hygiene.

**Food:** All prisoners are entitled to three meals per day at intervals of approximately five hours between the first and second meal and six hours between the second and third. Juvenile prisoners should receive four meals per day at appropriate intervals. The menus should be prepared in accordance with the recommendations of the Higher Institute of Nutrition and reviewed at least every five years to take account of any changes in nutritional science. The menus should also take account of the relevant requirements of the different religious faiths.

**Medical care:** The law prohibits that prisoners should be charged for any medical care provided under the national health service. All medical interviews must be conducted in the presence of medical staff only unless the requirements of security dictate otherwise; in such cases all necessary steps must be taken to ensure confidentiality. Only authorised medical staff may have access to medical and clinical records. Medical care of prisoners is being transferred to the Ministry of Health, as a result of which equivalence with healthcare outside prison is more likely to be guaranteed.

The CPT report of their visit in 2000 was critical of a number of aspects of the treatment of HIV-positive and drug-dependent prisoners. A number of these issues, especially with regard to drug dependency, are being dealt with through the pilot project on transfer of responsibilities for healthcare to the Ministry of Health. Fewer than half of all prisons have drug detoxification facilities and substitution treatment. Disinfectants and condoms are not provided.

**Rules for specific groups:** There are specific regulations concerning the treatment of specific groups of prisoners, especially women and young prisoners.

**Disciplinary charges:** The director of the prison must inform prisoners of the disciplinary charges made against them. Prisoners have the right to make a statement in their own defence before the investigating officer and before the disciplinary tribunal.

**Solitary confinement as a punishment:** Prisoners accused of certain disciplinary infractions may be held in solitary confinement pending a disciplinary hearing in
cases where it is considered urgent and appropriate for good order or security. Any sanction involving removal from communal activities can only be implemented with the written authorisation of a medical officer certifying that the prisoner is able to undergo the sanction.

Where a medical officer certifies that a prisoner is not fit to undertake solitary confinement as a disciplinary measure the sanction may be suspended until such time as the prisoner has recovered from the condition which justified the suspension.

Prisoners may be placed on a strict cellular regime for an initial period not exceeding six months for reason concerning the good order or security of the prison. They have the right of appeal to the relevant tribunal.

Requests and complaints: Prisoners are allowed to submit oral or written requests and complaints (under sealed cover if required) to the prison director, the supervising magistrate, the judicial and health authorities, the president of the regional council and the head of state. The law encourages the supervisory magistrate, the regional director and the prison director to provide opportunities for prisoners to speak to them when they tour the prison; this should be particularly frequent in the case of the prison director.

Communications: Prisoners are allowed to communicate by letter and telephone with family members and in the pursuit of legal proceedings. Prisoners may be allowed one telephone call per week at the discretion of the prison director or, in the case of pre-trial prisoners, the competent judicial authority. All prisoners are entitled to six visits per month of a maximum of one hour per visit. Visits by a spouse or partner may be extended to two hours if they live some distance away, if the prisoner did not receive a visit in the previous week and if the circumstances in the prison permit. The number of visits may be limited to a maximum of four per month in the case of those sentenced or accused of certain offences. Visits should take place within sight but not within earshot of prison officers.

There are severe restrictions on visits and communications allowed to prisoners subject to Article 41-bis of the prison regulations. This has been the subject of a number of challenges in the ECtHR, particularly with regard to restrictions on correspondence.

Activities: Work is obligatory for sentenced prisoners and should be remunerated and non-afflictive in character. The report of the CPT visit of February 2000 noted a shortage of work placements in the prisons which they visited. The statistics of the Department for Penitentiary Administration show that on 31 December 2002 there were 13,474 (24%) prisoners in employment, the overwhelming majority in posts provided by the DAP. Priority for employment is generally given to long-term prisoners. The government has recently introduced a system of substantial tax incentives – E516 per month - for companies which offer employment to prisoners.

Remuneration for employment with prison services is set at a level not less than two-thirds of the wage for equivalent services outside. Deductions may be made for a number of purposes including damages and court costs. The monies of sentenced prisoners are divided into disposable and non-disposable accounts; one-fifth is
retained in the non-disposable account to be used as a release fund. All the funds of pre-trial prisoners are disposable subject to a maximum limit.

In the second half of 2001 approximately 3,000 prisoners were enrolled in vocational training courses.

**Exercise:** All prisoners, other than those who work in the open air, are entitled to two hours of exercise (which may not be reduced to less than one hour) in the open air each day. Facilities for exercise in the open air are severely restricted in a number of older prisons.

**Access to a legal representative:** According to law anyone placed in detention has the right of immediate contact with a lawyer.

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**LATVIA**

**Significant points:** The prison population is decreasing. In 1992 there were 8,340 prisoners, in 1998 there were 10,070. In September 2003 the prison population was 8,150, giving a rate of 351 per 100,000. Of these 38.8% were pre-trial, 6% were female, 4% were juveniles and 0.5% were foreign nationals.

The Ministry of Justice is responsible for prison administration and there are 15 penal establishments.
In 1998 a new Execution of Punishment Code was introduced. Extensive renovation and refurbishment, including the replacement of large dormitories with smaller cells/rooms and improvements to lighting, ventilation and sanitary facilities, have led to the improvement of living conditions such that by 2002 about half the prison population was accommodated in circumstances akin to those envisaged by the European Prison Rules.

Properly recruited and trained prison staff have replaced military personnel in guarding the perimeter. A social rehabilitation programme, including assisting prisoners to prepare for life in the community by participating in socially useful activities, and involvement of the churches, has been introduced.

In 2003 the National Human Rights Office (NHRO) reported no complaints of torture or inhumane treatment of prisoners. The NHRO expressed concern about short-term detention facilities. There were 28 short-term facilities in the country designed to house detainees for no more than 72 hours. The NHRO stated that conditions such as poor ventilation and damp, dark and dirty cells violated human rights standards in at least half of these centres.

During 2003 overcrowding decreased. Although they were held separately, pre-trial detainees had limited contact with NGOs or family and suffered from considerably worse living conditions than prisoners in general. Pre-trial detention was lengthy with reports of detainees waiting two years for their trial although the Criminal Procedures Code limits pre-trial detention to no more than 18 months from the first filing of the case.

The holding of juveniles in pre-trial detention for long periods had been a cause of concern. In 2003 the courts enforced a six-month limit for detaining juveniles prior to trial and the situation improved with the number of juveniles in pre-trial detention decreasing to 239, representing seven per cent of all detainees.

Other causes of concern are the compulsory testing for HIV infection, disciplinary hearings that do not follow the requirements of natural justice and harsh punishments in that prisoners in disciplinary isolation are not provided with bedding.

Prisoners retain their voting rights.

**Inspections by an independent body:** Regular independent inspections are conducted by the prosecutor who is entitled to visit detention areas in order to inspect conditions and to control compliance with legislation and regulations, including disciplinary measures. Staff in the prisons visited by the CPT in 1999 reported that the relevant prosecutors normally limited their inspections to examining the legal and administrative documents of prisoners. The CPT recommended that steps should be taken to ensure that the prosecutors regularly visited detention areas and entered into direct contact with prisoners.

Following the transfer of responsibility for the prisons to the Ministry of Justice in January 2000, the Ministry has established a bureau of inspection.
The Government permits independent human rights observers to visit prisons. Domestic groups, such as the Latvian Centre for Human Rights and Ethnic Studies, closely monitored prison conditions during 2003.

**Separation of prisoners by category:** The prison administration reports that untried prisoners are always detained separately from convicted prisoners, women prisoners separately from men and that juveniles under 18 are always held separately from adults.

**The use of individual and shared accommodation:** In the Central Prison rooms are intended to house six to ten prisoners, but the CPT found that 20 or more prisoners were occupying these cells in 1999. The largest number of prisoners held in one room in the Latvian prison system in 2001 was said to be 50.

**Overcrowding and space per prisoner:** Overcrowding exists in pre-trial institutions. The standard specification of the amount of space considered necessary for each prisoner, established by regulations but not by legislation, is 2.5m², but 3m² for women and juveniles; the CPT has recommended that this be increased to 4m². The capacities of the penal institutions are based on the standard specification. The occupancy level of the system as a whole was 90.7% at 13 June 2003 (8,996 places, 8,156 prisoners).

**Physical conditions:** The CPT was critical of the heating, lighting and ventilation in the central prison in Riga when it visited in 1999. The government reported that as part of the reconstruction of the prison, improvements have been made in respect of these matters.

Every prisoner is able to have a bath at least once a week. Pre-trial detainees are allowed to wear their own clothing if it is clean and suitable.

The CPT was critical of the cleanliness in the vast majority of cells in the central prison in 1999.

**Food:** The prison administration reports that it is able to provide a balanced diet, including meat, fruit and vegetables. Special diets are provided for those who need them for health reasons.

**Health care:** Health care in Latvian prisons in 2001 was the responsibility of the prison service and separate from the Ministry of Welfare, which is responsible for general health care in the country. Council of Europe experts and also the CPT have recommended a greater involvement of the Ministry of Welfare on the principle that it will lead to more equivalence of health care in prison with that in the outside community.

The prison administration reports that many prisoners have an alcohol problem. A treatment programme is in place. The number of prisoners with a drug problem is also large (estimated at 800 to 1,000 in October 2001) and is still increasing. There is no treatment programme in place. HIV/AIDS is also a problem; the number of HIV positive prisoners increased from 290 in 2000 to 457 in October 2001 (a rise of 58%). The CPT recommended ending compulsory testing in the report on its visit in 1999.
but the prison administration reports that all prisoners were still being tested in 2001. The amount of information about HIV and AIDS that is made available to prisoners was increased well before the CPT visit and arrangements were made for them to receive counselling before and after the tests.

The severest health problem among prisoners is tuberculosis. Close co-operation was established with the State Tuberculosis and Lung Diseases Centre. Training was provided for medical staff from the prison hospital. The DOTS system (directly observed treatment strategy) was introduced. The number of prisoners with the disease has begun to fall. From 562 (6% of the prison population) in 2000 it decreased to 308 (about 3.5%) in mid-2001.

**Rules for specific groups:** During the year, juveniles were moved from the substandard Brasas Detention Facility to a newly renovated facility at the Riga Central Prison. Conditions in the only prison for women were overcrowded at the time of the CPT visit, and in June 2003 there were 487 women in the Latvian system and the women’s prison has a capacity of under 350.

**Disciplinary charges:** The CPT were told in 1999 that prisoners were only seen in person in the event of a very serious disciplinary offence. In other circumstances the prisoner has the opportunity of stating his point of view in writing. The CPT recommended that there should be an oral hearing in all disciplinary cases, and that, if necessary, the relevant regulations should be amended accordingly.

**Solitary confinement as a punishment:** The maximum length of time that a male prisoner can be held in solitary confinement is 15 days; for women it is 10 days and for juveniles five days. The CPT considered the conditions of detention in the disciplinary cells at the Central Prison to be unacceptable and recommended that immediate measures be taken to ensure that prisoners placed in them were given a mattress and blanket at night, offered one hour of outdoor exercise per day and given access to reading matter.

**Communications:** Visits to pre-trial detainees are dependent on the permission of the authorities (investigator/court), but are generally allowed at least once a month. The frequency of visits to sentenced prisoners depends on the level of the regime. In the semi-closed regime it is once a month. Visits last one to two hours but half the visits to sentenced prisoners are long visits of up to 36 hours. Sentenced prisoners in the closed regime are only allowed visits once every two months.

**Activities:** Work was available for about 30% of the sentenced population in mid-2001. There was no work for pre-trial detainees. Wages are not less than the minimum salary in the community outside.

Apart from work, activities available to occupy sentenced prisoners during a normal day include education and vocational training. The length of time that cells/rooms are unlocked per day depends on the regime. Pre-trial detainees are allowed only one hour a day out of their cells/rooms.

**Exercise:** Sentenced prisoners and pre-trial detainees are reported to have at least one hour a day of walking or suitable exercise in the open air.
LITHUANIA

**Significant points:** The prison population is decreasing. In 1992 there were 9,175 prisoners, in 1998 there were 13,628. In September 2003 the prison population was 8,957, giving a rate of 260 per 100,000. Of these 14.3% were pre-trial, 2.8% were female, 2.4% were juveniles and 1.2% were foreign nationals.

The Ministry of Justice is responsible for prison administration and there are 15 penal establishments.

The 2002 Code of Criminal Procedure and Penal Enforcement Code led to fewer and shorter prison sentences. Changes have also been made to the structure of health care organisation, whereby the Ministry of Health has acquired a major role in supervising the quality of health care in prisons. Properly recruited and trained prison staff have replaced military personnel in guarding the perimeter. In 2003 funding for the prison system was increased by 17.4%.

Health problems are acute. An expert mission from the Council of Baltic Sea States which visited in March 2003 found serious problems with transmissible diseases. As of July 2003, 12% of all prisoners were registered as drug users, and HIV infection figures very high following the outbreak at Alytus maximum security prison where suddenly 284 HIV infected prisoners were found. The cause was thought to be a dramatic increase in illicit drug use and needle sharing. The Government took measures to reduce drug levels in prisons and offered training for officials and harm reduction programmes for prisoners. In May, a reconstructed building with a capacity for 300 HIV-infected prisoners opened in Alytus. In November, a prevention and rehabilitation centre for drug addicts and HIV-infected prisoners opened at the Pravieniskes Prison.

During 2003 a significant number of detainees reported mistreatment, abuse, and violence, which public prosecutors and judges acted to address. In May, the new Code on Enforcement of Sentences separated inmates into three groups - regular, minimum security and disciplinary - depending on their behaviour in prison. According to the US State Department, in August, prison authorities in Alytus used force against...
inmates in the disciplinary group protesting the new regime. Seventy prisoners made complaints on excessive use of force. From January to August 2003, 24 prisoners died (11 of natural causes, eight by suicide, and five killed by other prisoners). A significant increase in the suicide rate was attributed to the growing proportion of prisoners with drug addictions and psychological problems. From January to August, there were 110 injuries inflicted by other prisoners and 101 self-inflicted injuries, due to abuse and conflicts among fellow prisoners, depression, or to protest sanctions by authorities, a drop of approximately 30% from the same period of 2002. The Prisons Department introduced programmes to prevent suicides and aggression among prisoners in some of the prisons.

The US State Department also reports that prison personnel were charged with committing 12 criminal offences.

Prisoners retain the right to vote and are entitled to long private family visits.

**Inspections by an independent body:** Regular independent inspections are conducted by prosecutors and judges and also by the Parliamentary Ombudsman, but the CPT gained the impression that their visits were rare and, in the case of the prosecutors and judges, limited in scope. They recommended that the Lithuanian authorities review the current arrangements. In response it was pointed out that national and international organisations with a mandate to inspect institutions were allowed to do so without any restrictions. The US State Department notes that the government permitted visits to prisons by independent human rights observers, and there were such visits during 2003.

**Separation of prisoners by category:** The prison administration reported and the US State Department confirmed that untied prisoners are always detained separately from convicted prisoners, women prisoners separately from men and juveniles under 18 separately from adults.

**The use of individual and shared accommodation:** At a prison visited by the CPT (Pravieniskes No. 2) the vast majority of prisoners were accommodated in dormitories accommodating 20-30 prisoners. The largest number of prisoners held in one room in the Lithuanian prison system is said to be 40.

**Overcrowding and space per prisoner:** Overcrowding exists in accommodation for pre-trial detainees and those for sentenced prisoners. The standard specification of the amount of space considered necessary for each prisoner, established by Order of the Minister Of Health Care of the Republic of Lithuania, is 5m² in closed accommodation, 3m² in semi-closed accommodation, 6m² in open accommodation and 7m² in medical treatment establishments. The capacities of the penal institutions are based on this standard specification and in general allow about 3m² per prisoner. The CPT recommended that the objective should be to offer at least 4m² per prisoner. The occupancy level of the system as a whole was 92.7% at 18 August 2003 (9,941 places, 9,217 prisoners). The problem of overcrowding is most acute in the two investigation and interrogation facilities.
**Physical conditions:** Sanitary arrangements and arrangements for access are reported to be adequate. Every prisoner is able to have a bath at least once a week.

**Food:** The quality and quantity of food are reported to be close to average standards in communal catering outside, but not quite as good. The ratio of fruit and vegetables is not enough, though every prisoner has a right to receive a food parcel (or goods handed over) per month in addition to the normal allowance of parcels. Special diets are provided for those who need them for health reasons. According to the US State Department funding of approximately $0.80 (2.4 litas) per prisoner per day covered only minimal needs for meals and prisoners could use their own or outside funds to improve their diet.

**Health care:** In January 2001 the prison hospital was registered with the Ministry of Health as a state closed institution of personal hygiene, pre-trial detention and enforcement of a custodial sentence. The hospital must perform its activities in accordance with the Law on Health Care Institutions, which includes the principle of the priority of patients’ health interests over other official responsibilities. The Ministry of Health is entitled to supervise the activities of the hospital. The Prison Department has also established a health care service, which will supervise health care in all penal institutions in direct co-operation with the Ministry of Health. During 2001 a commission was to be established jointly by the Ministries of Health and Justice under which representatives of the two Ministries would regularly assess the quality of diagnosis and treatment of pre-trial detainees and sentenced prisoners, the prevention of contagious diseases, mental disturbances and drug addiction and refer the findings of the commission to the two Ministries.

The prison administration reported that in the first six months of 2001 six per cent of prisoners were recorded as having an alcohol problem and a treatment programme is in place.

Despite WHO guidelines there is routine testing for HIV/AIDS; prisoners who are HIV positive can be segregated, allegedly at their own request. A serious outbreak of HIV infection occurred in 2002. In May of that year a survey at Alytus strict regime colony identified 229 prisoners who were HIV positive. The survey was repeated in July and a further 56 prisoners were identified as HIV positive; 44 of these 56 had been HIV negative during the survey in May. The cause of the outbreak was established to be injecting drug use in the prison. The identification of this number of HIV cases caused concern in Lithuanian society and the outbreak was seen as a major public health failure. Several prison officials were sacked, including the prison director. In addition the Lithuanian Government made 2.5 million litas (E725,000) available to tackle HIV in the prison system.

The control of TB in the prisons is done in conjunction with the national TB programme. Prisoners are checked for TB at reception to prison and subsequently and there is a special prison for those with the disease. The incidence of TB in the prisons decreased between 1992 and 2002 but it has begun rising again. Treatment is in accordance with the DOTS scheme recommended by the WHO.

In March 2003 an expert mission from the Council of Baltic Sea States found a serious problem of multi-drug resistant tuberculosis (MDR-TB) in Lithuanian prisons.
Treatment of these patients with second line drugs is not guaranteed. The experts feared that with the rapid increase in the number of HIV infected prisoners the combination of HIV and MDR-TB is a ‘disaster waiting to happen’. The official response to the sudden increase in the number of HIV infected prisoners in Alytus strict regime colony was to introduce new security measures to prevent the smuggling of drugs and syringes into the prison and to introduce a new testing policy. Health education of prisoners was lacking. No leaflets or printed materials were available to prisoners. Harm reduction materials such as bleach or condoms were not readily available to prisoners. The international experts recommended that the policy of compulsory testing be reconsidered as it is considered ineffective, discriminatory and unethical. Voluntary testing accompanied by counselling should be introduced instead. Personnel and prisoners must have information and education about HIV/AIDS. Harm reduction should be the aim of policy. Full-strength household bleach and condoms should be available to all prisoners. A pilot needle exchange programme should be established.

Rules for specific groups: Special arrangements are made for young prisoners and most juveniles are involved in study and nearly a fifth have paid work. All juveniles have the opportunity of studying at secondary school level and over 90% do so. About a third of juveniles are involved in vocational training.

Disciplinary charges: All prisoners against whom a disciplinary charge is brought are given the opportunity to be heard in their defence. Likewise they may appeal to the Prison Department (prison administration headquarters) against any punishment imposed. The US State Department reports that from January to August 2003 there were 138 criminal offences committed in prisons, compared with 22 during the same period of 2002. Authorities attributed the increase to their efforts to prevent the spread of drugs.

Solitary confinement as a punishment: The maximum length of time that a sentenced adult male prisoner can be held in solitary confinement is 15 days. For women and for adult male pre-trial detainees it is 10 days and for juveniles five days. In addition to isolation on disciplinary grounds there is a system of administrative segregation (or cellular confinement) for up to six months. Prisoners so segregated occupy ordinary cells and are allowed largely normal conditions apart from their segregation from almost all other prisoners (although they may be located several to a cell). The CPT found that prisoners held in the segregation unit, whether for disciplinary punishment or for administrative segregation, were only allowed half an hour’s exercise and those undergoing disciplinary punishment were not allowed access to reading matter. Following their recommendations on these matters the Lithuanian authorities reported that new Internal Rules of June 2000 authorise all prisoners to have an hour’s exercise.

Communications: In the case of pre-trial detainees the investigator or court decides whether visits shall be allowed and who can visit. In general visits are allowed, but less than once a month. For sentenced prisoners in the normal regime the allowance is six short visits (two to four hours) and four long visits (one to two days) per year. In the strengthened regime it is four short visits and four long visits, in the strict regime three short visits and three long visits and in the closed institutions six short visits and
no long visits. This suggests that no prisoner in Lithuania can be visited as often as once a month.

**Activities:** Sentenced prisoners are required to work, if they are fit to do so and work is available for them. At the beginning of 2002 work was available for about 25% of the sentenced population. There is no work available for pre-trial detainees. According to the US State Department convicted prisoners may be involved in unpaid routine up-keep work in the penal institutions and in work connected with improvement of cultural and every-day living conditions of the prisoners. The unpaid work must be performed on a rotation basis outside working hours, up to two hours per day.

Apart from work, activities available to occupy sentenced prisoners during a normal day include education and vocational training. There are education programmes in half the institutions and vocational training in two-thirds. The doors are unlocked every day except in the closed institutions. About seven per cent of adults study secondary school education, about the same percentage are engaged in vocational training.

**Exercise:** Adult male sentenced prisoners are reported to have at least one hour a day of walking or suitable exercise in the open air, and women and juveniles two hours. Pre-trial detainees have an hour a day.

**Sources**
Assessment of Communicable Disease Control in Lithuanian prisons, report of an expert mission to Lithuania carried out 17-21 March 2003 by Thuridur Arnadottir, Ingrid Lycke Ellingsen and Zaza Tsereteli.
International Helsinki Federation <www.ihf-hr.org>

**LUXEMBOURG**

**Significant points:** The prison population is increasing. In 1992 there were 352 prisoners, in 1998 there were 392. In September 2003 the prison population was 498, giving a rate of 111 per 100,000. Of these 43.6% were pre-trial, 6.1% were female, 2.4% were juveniles and 63.9% were foreign nationals. Thus nearly two in three of all prisoners are foreign nationals. The Ministry of Justice is responsible for prison administration and there are two penal establishments.
According to the US State Department prison conditions generally meet international standards.

**Inspections by independent bodies:** There do not appear to be any arrangements for formal inspection by an independent body. Members of the Chamber of Deputies may visit but they require specific authorisation from the Minister of Justice if they wish to enter an occupied cell or speak to specific prisoners. They will be accompanied by the prison director or a nominated deputy. The State Prosecutor General, who has overall responsibility for prison administration, is required to inspect each establishment as often as necessary and at least four times a year. Other official bodies (generally judicial) are authorised to visit in connection with their duties. The government allows visits by human rights monitoring organisations.

**Separation of prisoners by category:** The main prison houses sentenced men and women, and pre-trial men, women and young prisoners. The requirements for strict segregation are set out in legislation. The only service links between the male and female wings should be those which are strictly necessary. In the case of pre-trial prisoners they may not be held with sentenced prisoners without their consent. Men and women were held separately in prisons. Juveniles may be held in pre-trial detention in an adult prison for a period not exceeding one month on the orders of the Children’s Judge. They must be held away from adult prisoners and on a regime appropriate to their age. The CPT report of 1997 noted that some young prisoners were being held with adults because of a shortage of suitable accommodation. In a recommendation on its third periodic report on Luxembourg (15 May 2002) the United Nations Committee against Torture recommended that Luxembourg refrain from placing minors in adult prisons for disciplinary purposes.

**The use of individual and shared accommodation:** The standard legal minimum is that prisoners should be placed in individual cells at night even if they benefit from a shared regime during the day. However, they may be placed in shared cells subject to the operational needs of the establishment or their personality. The prison director is responsible for decisions as to who may share. The recent additional building at the Centre Pénitentiaire de Luxembourg (CPL) was designed to accommodate pre-trial prisoners and allows a return to the principles of individual cells and separation of pre-trial and sentenced prisoners.

**Overcrowding and space per prisoner:** The CPT report of 1997 drew attention to significant overcrowding (387 prisoners against an official capacity of 270). The government was in process of constructing new accommodation for pre-trial prisoners. By September 2001 the official capacity of the prisons had risen to 492. In September 2003 there were 498 prisoners.

**Physical conditions:** Prisoners are obliged to bath or shower at least once a week. All may wear their own clothing unless otherwise ordered by the prison director on the grounds of hygiene, decency or security. No prisoner may be compelled to wear his own clothing except when appearing before judicial authorities.

Part of the work available to prisoners includes employment in the general services responsible for cleaning the prison. The prison doctor is required to inspect and report
at least once a quarter on the hygiene and cleanliness of the establishment and of the prisoners.

**Food:** Prisoners are entitled to three meals a day with a nutritional value sufficient to maintain their health and strength. The diet is fixed by the director under the supervision of the prison medical service.

**Medical care:** All prisoners are entitled to free medical care and the free supply of any drugs prescribed by the prison medical staff. The principle of free medical treatment also extends to secondary care and any hospital treatment.

Anyone whose mental condition is such that they are certifiable under Article 6 of the Law of 26 May 1988 may not be held in prison but must be held in a closed psychiatric institution. Those who are not certifiable but show symptoms of mental disorder which might prevent them from adapting to normal prison regime may be transferred on medical advice to the psychiatric wing of the prison hospital.

All prisons provide detoxification and there is also substitution treatment, blood screening, vaccination programmes, and provision of condoms.

**Rules for specific groups:** There are specific regulations concerning the detention of young people held in the Centres Pénitentiaires. Young prisoners placed in the adult prison (CPL) must be provided with an appropriate regime.

**Disciplinary charges:** All those in detention must be informed of any disciplinary charge against them and must be given the opportunity to present a defence. All prisoners have the right of appeal to the prison director or, if the complaint is against the prison director, to the State Prosecutor General. Any punishment involving reclassification, loss of work, loss of association or use of punishment cells must be brought to the attention of the State Prosecutor General who has the authority to modify them or order that they be suspended.

The CPT report of 1997 drew attention to the fact that there is no provision to appeal against those disciplinary measures which are determined by the State Prosecutor General. In its response the government of Luxembourg indicated that such legislation was being considered.

**Solitary confinement as a punishment:** Solitary confinement as a disciplinary punishment may be imposed for a maximum of 30 days. Prisoners under punishment are allowed one hour of exercise each day and access to newspapers and library books; punishment cells cannot be used without medical authorisation. The doctor must visit prisoners undergoing solitary confinement at least twice a week and can suspend the punishment if they feel that it is impairing the physical or mental health of the prisoner.

Based on the recommendations of the CPT, the Act of 8 August 2000 was adopted, supplementing the Act of 26 July 1986. This now guarantees detainees the possibility of appealing against a decision ordering their placement in strict solitary confinement, either as a disciplinary measure or because they are reputed to be dangerous.
Requests and complaints: All prisoners have the right to make requests or complaints to the prison director or to the State Prosecutor General if the complaint is against a decision of the director. Any prisoner may also submit in confidence a complaint or request to the Head of State, the Chamber of Deputies, the Ministry of Justice, the State Prosecutor General and the judicial authorities.

Communications: Pre-trial prisoners may write to anyone they choose and receive letters on a daily basis unless they are subject to a specific prohibition from the investigating magistrate or are subject to an internal prison disciplinary sanction. The times of visits are set by the individual institutions.

Activities: All sentenced prisoners have the right to work; pre-trial prisoners may also request employment. The remuneration of prisoners is set by the Ministry of Justice. For sentenced prisoners a proportion of the remuneration is placed in a reserve account released to the prisoner at the end of the sentence. The full remuneration of pre-trial prisoners is placed at their immediate disposal. There are specific and separate arrangements at the Centre Pénitentiaire de Givenich based on progression from work in the prison’s workshops to work in the outside community.

In addition to work prisoners also have the opportunity to engage in vocational training, general education and leisure and cultural activities.

Exercise: All prisoners are allowed one hour of exercise in the open air each day. This entitlement cannot be removed as part of the punishment of solitary confinement.

Access to a legal representative: Legal representatives may visit pre-trial prisoners freely during normal working hours. They may also visit sentenced prisoners on application. The right of pre-trial and sentenced prisoners to correspond with and receive visits from their legal counsel cannot be withdrawn as part of the punishment of solitary confinement.

Sources
Centre Pénitentiaire de Givenich.

Addendum: report following a visit carried out by the Committee in February 2003.

Juveniles: The CPT expressed concern at the treatment of juveniles in the prison system and recommended that the Luxembourg government should take immediate steps to set up a separate unit outside the prison system for the detention of juveniles. The government responded that plans for doing so were in hand.

Solitary confinement: The CPT expressed concern about arrangement for and use of solitary confinement. In its response the government provided detailed information
about these arrangements and pointed out that, since there is only one main prison in Luxembourg and this is of medium security, it is not possible to transfer dangerous prisoners elsewhere and thus avoid the need to hold them in solitary confinement.

Independent inspection: The CPT recommended that the government should take immediate steps to introduce a system of independent inspection of prisons. The government responded that current arrangements, which allowed for visits by members of the Chamber of Deputies and oversight by the Prosecutor General, met this requirement.

Sources

MALTA

Significant points: The prison population is increasing. In 1992 there were 169 prisoners, in 1998 there were 260. In September 2003 the prison population was 283, giving a rate of 73 per 100,000. Of these 23% were pre-trial, 3.9% were female, 1.1% were juveniles and 35% were foreign nationals.

The Ministry for Home Affairs is responsible for prison administration and there is one penal establishment.

A new prison block that is expected to hold over 100 prisoners was opened during 2003 and was in use by year's end.

Inspections by an independent body: There is an independent Board of Visitors appointed to the prison. It is empowered to inspect the prison and to receive complaints from prisoners; its annual reports are published.

The Ombudsman has authority to look into any issue regarding the administration of the prison. His terms of reference include investigation of the behaviour of any government department and his findings are made public. In addition the Prison Act authorises the Minister, the Chief Justice, the judges, the magistrates and the Attorney-General to inspect the prison at any time and to speak to any of the prisoners.

Separation of prisoners by category: There is a separate prison wing for women prisoners and another for juveniles. The recent building extension at the prison included a 144-place unit for remand prisoners to ensure that they are kept separately from sentenced prisoners.

The use of individual and shared accommodation: The Substance Abuse Treatment Unit has two ten-bedded dormitories. Other accommodation at the main prison appears to be single cells. The cells in the women’s unit are reported to be 8m² and those in the male prison are similar. Those in the juvenile unit are reported to be 6.5m².
**Overcrowding and space per prisoner:** Although the number of prisoners has risen significantly over the last ten years it remains below the recorded capacity of the prison. In 2002, the system functioned at 5.7% below capacity.

**Physical conditions:** Access to natural light and ventilation in the female facility has been criticised. The cells in this unit are similar to the cells in the main prison with the exception that the windows are six inches smaller. In order to improve access to natural light work was put in hand to remove the iron grids fixed to the outside of the windows. The conditions in the new young offenders section are satisfactory. Ventilation in the cells is good, as is their access to natural light and artificial lighting.

Each of the 36 single-occupancy cells in the juvenile unit is equipped with integral sanitation (washbasin and partitioned toilet). There is also in-cell sanitation in the women’s unit. Conditions in the male sections of the prison are described as similar.

**Medical care:** Medical provision is on the whole described as adequate, although conditions in the medical units are cramped. There were plans to enlarge the medical facilities as part of the construction programme for the new pre-trial accommodation.

Medical confidentiality was respected in the sections for men and young offenders. However, in the women’s section, a medical register containing confidential information was found to be placed within ready access of custodial staff.

A Substance Abuse Treatment Unit (official capacity: 20) was established in 1995 under the authority of Corradino Correctional Facility. It houses sentenced prisoners with drug-related problems in the period immediately prior to their release from prison. Because of the high numbers of foreign national prisoners, especially from Libya, the health and drug awareness information booklet for prisoners has been translated into Arabic. Psychiatric care was described as adequate, but the CPT recommended in 2001 that a clinical psychologist be included in the prison mental health team. The government has arranged for psychological services to be provided by outside agencies.

**Rules for specific groups:** In 2001 the CPT found the conditions in the new young offenders section were satisfactory. Each of its 36 single-occupancy cells measured approximately 6.5 m² and was furnished with a bed, table, cupboard, and bookshelves, as well as being equipped with a television, call system, and integral sanitation (washbasin and partitioned toilet). Ventilation in the cells was good, as was their access to natural light and artificial lighting. Other positive features in the section included a library, music room, workshop, gymnasium, laundry, visiting facilities, a spacious exercise yard and ample communal rooms.

There are also specific rules concerning the treatment of women prisoners and, especially, their separation from male prisoners.

**Disciplinary charges:** During the CPT visit in 2001, it was noted that prisoners were not allowed to call witnesses on their own behalf and could not cross-examine evidence against them or make statements in mitigation if found guilty by the Prison
Director. Amendments to the 1995 Prison Regulations concerning disciplinary proceedings against prison inmates were being prepared in response to these issues. Regulation 76 (1) will be amended so that prisoners will be informed in writing of the charges against them. Under current regulations there is normally a period of at least one week between notifying the prisoner of a charge and the hearing. There is a separate Appeals Tribunal. Prison Regulations will be amended so that when an appeal is lodged, the Appeals Tribunal may examine any witnesses as requested by the inmate.

Although prisoners may not have access to legal representation in presenting a case to the initial disciplinary hearing a member of the independent Prison Board of Visitors is available to assist prisoners during this hearing.

**Solitary confinement as a punishment:** The material conditions in the cells used for cellular confinement on disciplinary grounds are on the whole satisfactory; however, the doors of the cells in the unit are grille-fronted which does not afford any privacy. The government is seeking to replace these with solid doors.

**Requests and complaints:** Prisoners have the right to lodge complaints with the Ombudsman; the prison authorities forward the letters unopened. Other authorities with whom prisoners may correspond are listed in the Prison Regulations.

**Communications:** Remand prisoners are entitled to one daily 15-minute closed visit on weekdays and a 45-minute open visit on weekends, subject to the approval of the relevant judicial authority.

There have been concerns about the delays in correspondence as a result of all letters being read by prison staff. This was a particular difficulty in the case of foreign prisoners because of the additional delay of translation. Letters addressed to, or written by, foreign prisoners are no longer being controlled unless there are reasonable grounds that the prisoner may be planning something illicit.

Sentenced prisoners are entitled to one 45-minute open visit a week. In response to concerns over the effect of this policy on foreign prisoners new guidelines have been introduced. Foreign prisoners may now have a two-hour contact visit with their relatives who come from abroad if these are visiting Malta for one day. Those who stay for a longer period are given the opportunity to visit the prisoner on more than one occasion.

**Activities:** In May 2001, a total of 167 prisoners (approximately two thirds of the prison's population) were employed. The situation was less favourable for women prisoners, who were offered a very limited selection of work activities - cooking, cleaning, and simple industrial work (packing) - in which only half of them were involved. Under the terms of the Prison Act the Minister may authorise payment to prisoners who work.

There is a good and varied regime available to prisoners in the young offenders section. It offers a full curriculum of classes and a well-developed recreation programme.
There have been improvements in recent years in the provision of education to adult male prisoners with the development of new classrooms and the employment of 15 part-time teachers. Adult women prisoners are offered classes within their own section; the range of opportunities appears to be less wide than for male prisoners. Part of the recent new building includes a small, well-equipped gymnasium (available only to male prisoners).

**Exercise:** There are spacious exercise yards in each section of the prison; information is not available on the minimum entitlement to exercise.

**Sources**

**THE NETHERLANDS**

**Significant points:** The prison population has increased substantially. In 1992 there were 7,397 prisoners. In 1998 there were 13,333. In September 2002 the prison population was 16,239, giving a rate of 100 per 100,000. Of these 44.2% were pre-trial, 6.8% were female, 0.8% were juveniles and 36.4% were foreign nationals.

The Ministry of Justice is responsible for prison administration and there are 79 penal establishments.

There are some human rights problems. Following high profile escapes in 1991, ‘extra high security units’ (*Extra Beveiligde Inrichting*, EBIs) were introduced in the Netherlands. One fully-fledged EBI prison exists to house prisoners who are considered to be high escape risk or whose escape would be unacceptable. Detention in EBI is for a period of six months, which can be extended. A prisoner can appeal against his initial selection and any extension. The regime in EBIs is very restricted. Even visitors to EBI prisoners are subjected to strip-search prior to a visit and all conversation with visitors is recorded.

The CPT visited the EBI at Vught (completed in August 1996) and reported that the prisoners within ‘were subject to a very impoverished regime [which] was having harmful psychological consequences for those subjected to it’ and noted that the ‘regime…could be considered to amount to inhuman treatment. To subject prisoners classified as dangerous to such a regime could well render them more dangerous still’.

In 2002 the ECtHR found that the treatment to which a prisoner had been subjected in Vught involving routine strip-searching with other stringent security measures amounted to inhuman and degrading treatment and a violation of Article 3 (Van der Ven). In 2003 in another case (Lorse) the ECtHR found that the security measures in place in EBIs did indeed amount to inhumane and degrading treatment and thus a violation of Article 3.
In 2002 the European Court of Human Rights found that the Dutch authorities had violated, *inter alia*, Article 8 in respect of a prisoner’s correspondence with his lawyer and the European Commission on Human Rights (AB).

In October 2003 the principle of one cell per prisoner was ended and some prisoners were held two to a cell built for one. Compulsory drug treatment is being introduced.

**Inspections by an independent body:** Each prison or unit of a prison has a Supervisory Committee. The Supervisory Committee does not have the duty to undertake regular inspections but they are obliged to issue an annual report to the Minister and to the Prisons Section concerning their activities in the preceding 12 months.

The Commission for the Supervision of the Treatment of Persons Deprived of their Liberty (also called the Kleinmoedig Commission) was established by the government in 1998. Their task is to guarantee the physical integrity of persons deprived of their liberty and to investigate any abuse that might occur.

**Separation of prisoners by category:** There are separate penal institutions for men, women, juveniles, pre-trial prisoners and mentally sick prisoners. When allocating prisoners the law states that it is necessary to take into account which regime is best suited to a prisoner’s character, length of sentence and rehabilitation requirements. Prisoners have the right to request a transfer to another prison establishment.

**The use of individual and shared accommodation:** The general rule is that prisoners are to be accommodated in single cells (Penitentiary Principles Act, Article 16). However in October 2003 arrangements for holding two prisoners in a cell built for one was introduced in some prisons. In emergency situations pre-trial prisoners and prisoners in remand houses (such as immigrants who are illegally in the Netherlands and who are waiting to be expelled) are accommodated in a common cell. These common cells are dormitories of six or eight people.

**Overcrowding and space per prisoner:** In September 2002, the occupancy level (based on official capacity) was 97.3 percent. The standard cell size for one prisoner measures 4.8 (length) by 2.4 (width) metres (in total 11.52 square metres).

**Physical conditions:** All places where prisoners work and live have daylight or sufficient artificial light to read or work, heating and either ventilation or access to fresh air. However, following their visit to the Special Detention Facility in Bloemendaal in 2002, the CPT reported that although the cells were clean with good natural and artificial lighting, the ventilation in them ‘was less than satisfactory’.

Prisoners are obliged to take a shower or bath at least once a week. In many penal institutions prisoners are allowed daily showers. Prisoners are entitled to wear their own clothes and footwear, unless they pose a possible risk to order and safety or personal health. The prison is responsible for the laundering of clothes.
Food: Prisoners receive three meals per day. For medical, religious and ideological reasons some prisoners are allowed to receive a special diet. Every prisoner may buy, at his own expense, supplementary food.

Medical care: Medical care is provided by the State, unless a prisoner chooses to consult a physician of his own choice. Health care provision usually includes an in-house medical centre, psychologist, psychiatrist, general practitioner and dentist. The governor must ensure that medical care is properly arranged, that medication prescribed by a doctor is provided and that any medical treatment prescribed takes place inside or outside the prison. During its 2002 visit the CPT found that in one prison officers were present when medical staff interviewed prisoners and confidentiality was jeopardised.

There is no compulsory testing for HIV-infection. The HIV/AIDS policy is based on the principle of information and prevention. It assumes that every prisoner is potentially HIV positive. Methadone is supplied, as are condoms. The provision of clean syringes is under discussion. Detoxification is available in all prisons. There are Addiction Counselling Wards where prisoners can be given psycho-social counselling. There are no drugs allowed in these wards and urine checks are a basic element of treatment.

Disciplinary charges: The prison director can impose disciplinary sanctions when the behaviour of the prisoner is in conflict with good order, security and discipline. Before a sanction can be imposed, the prisoner must be heard. The prison governor gives the prisoner a reasoned, dated and signed notification of the decision and informs the prisoner that he can lodge a complaint with the prison complaints committee against any disciplinary sanction imposed.

Solitary confinement as a punishment: Solitary confinement is implemented in a cell separate from the premises where prisoners are held. The prisoner may receive mail and visitors, attend religious services and spend one hour each day in the open air. The cell contains a toilet, a mattress and a foam rubber block for a seat. The maximum period of solitary confinement is two weeks but this can be extended by two weeks. If the prisoner is in solitary confinement for longer than 24 hours, a member of the medical staff is informed.

Requests and complaints: A prisoner may file a complaint with the complaints committee, part of the Prison Supervisory Board, concerning any decision taken by or on behalf of the director. Appeals can be made against decisions made by this committee. Each year, around 4,000 complaints are filed and 25% of them concern the enforcement of disciplinary measures. In exceptional cases the prisoner may approach the National Ombudsman.

Communications: Prisoners are allowed to send and receive as many letters as they wish at their own expense. They are also entitled to receive at least one visit per week and to make a telephone call of at least 10 minutes duration each week at their own expense. In the case of pre-trial prisoners, the public prosecutor may prohibit telephone calls. If the prison administration feel that supervision during a visit is necessary, they must inform the prisoner of this before the visit takes place.
Pre-trial prisoners will be allowed unsupervised visits only in the most exceptional circumstances. The prison director may limit the number of visitors or ban certain visitors in the interest of maintaining order or safety of the penal institution. Prisoners serving a long-term prison sentence may be granted the right to receive unsupervised visit with their partners. Both the CPT and the European Court of Human Rights have commented upon the ‘very restrictive’ nature of conditions under which visits take place in some maximum security prisons.

Under the Penitentiary Principles Act (Article 36(3)) the director has the power to supervise prisoners’ correspondence. Within this supervisory power, the prison director can copy letters or other postal items.

**Activities:** Convicted prisoners are obliged to work, either inside or outside the prison. Pre-trial prisoners cannot be obliged to work. Working hours conform to good practice outside the prison. The Ministry of Justice decides rates of pay. If no work is available or the prisoner is unable to work due to illness, he receives 80% of the average daily income.

Every prisoner has the right to take part in recreational activities for at least six hours per week. More hours can be granted. All prisons have a library that can be used at least once a week. These libraries contain books and magazines, frequently available in foreign languages. Prisoners may also participate in educational activities.

**Exercise:** Prisoners have the right to spend one hour per day in the open air with other prisoners. Pre-trial prisoners detained under restriction may also exercise outdoors, but in a segregated area.

**Access to a legal representative:** Prisoners may receive legal representatives without restriction. When a legal representative visits, he must identify himself and pass the usual security checks, but his belongings may not be examined.

**Sources**

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WODC (Research and Documentation Centre of the Dutch Ministry of Justice) <www.wodc.nl>

**POLAND**

**Significant points:** The prison population is increasing. In 1992 there were 58,619 prisoners, in 1998 there were 57,382. In September 2003 the prison population was 80,693 giving a rate of 211 per 100,000. Of these 25.2% were pre-trial, 2.7% were female, 0.7% were juveniles and 1.7% were foreign nationals.

The Ministry of Justice is responsible for prison administration and there are 156 penal establishments.

Changes in recent years include the 1997 Penal Executive Code together with the Prison Service Act of 1996 which defines the tasks and organisation of the prison service and specifies the rights and obligations of prison staff.

The US State Department reports that in 2003 civil action against prison administrators in the 1996 case of a mentally retarded boy who was beaten and sodomised by prisoners was dropped after the Supreme Court determined the boy had been wrongfully imprisoned and awarded his family approximately $5,000 (20,000 PLN). The US State Department also describes prison conditions as `generally poor. Overcrowding, damp cells and a lack of medical treatment were the chief problems.’ The Ombudsman for Human Rights noted that prisoners were often the victims of violent attacks by other prisoners and staff. Other problems include overcrowding, both in accommodation for pre-trial detainees and for sentenced prisoners, a reduction in the proportion of the Ministry of Justice budget that is devoted to prisons and staff shortages.

There are particular concerns about solitary confinement. Rule 54(2) of the Rules for the Execution of Sentences of Imprisonment denies prisoners in solitary confinement visits; prisoners who are so confined are not visited daily by a medical officer, as required by Rule 38(3) of the European Prison Rules.

Polish prisoners retain the right to vote.

**Inspections by an independent body:** Regular inspections are conducted by the penitentiary judge, the Ombudsman and also by the Helsinki Committee. During 2003, the Human Rights Ombudsmen monitored 20 detention facilities and the Helsinki Foundation visited seven detention centres; some visits were announced, while other visits were unannounced. The Ombudsman (‘Spokesman for civil rights’) has the duty of checking that the rights and freedoms of citizens are observed, including those of persons who have been deprived of their liberty. The Ombudsman makes frequent visits to prisons and calls on the prison administration to advise. The Inspection Bureau at prison service headquarters state that they rarely disagree with a
conclusion of the Ombudsman and, even if they do, they attempt to take action in accordance with the recommendation. The Ombudsman is reported to have stated that the Inspection Bureau is protecting human rights in prison.

**Separation of prisoners by category:** The prison administration reports that untried prisoners are always detained separately from convicted prisoners and women prisoners separately from men. Women are held in 21 detention facilities; five of these were exclusively for women and in 16 men and women were held separately but in the same building. Juveniles under 18 may be located with young adults under 24 and with other adults who have been sentenced for the first time and are of exemplary behaviour.

**The use of individual and shared accommodation:** Most rooms house at least four people. The largest number of prisoners held in one room is said to be 20.

**Overcrowding and space per prisoner:** Overcrowding exists in institutions for pre-trial detainees and in those for sentenced prisoners. The standard specification of the amount of space considered necessary for each prisoner is 3m² for men and 4m² for women. The Penal Executive Code specifies no less than 3m² (Article 110). The CPT has recommended that the existing standard for male prisoners be aligned with that for female prisoners. The occupancy level of the system as a whole was 119.6% at 31 March 2003 (69,513 places, 83,113 prisoners).

**Physical conditions:** Sanitary arrangements are reported to be adequate. Every prisoner is able to have a bath at least once a week and more often if recommended by a doctor. Pre-trial detention detainees are allowed to wear their own clothing unless this ‘violates the standing orders in the detention prison or some security or sanitary reasons make it impossible’.

**Food:** It is reported that more is spent per prisoner on food than per patient in civilian hospitals. There is however said to be too much fat in the diet to constitute a balanced diet. Nine different diets are provided. The law requires that prisoners shall receive three meals a day of sufficient nutritive value, including at least one hot meal. Special diets are provided if, in the interests of a prisoner’s health, the physician so recommends.

**Health care:** Medical services are intended to be at a level equivalent to that offered to the general population. Article 115 of the Penal Executive Code states that sentenced prisoners shall receive free medical care, free provision of medications and dressings and, in particularly justified cases, free dentures. There is said to be good co-operation between the prison health care service and the Ministry of Health. Urgent consultations, surgical interventions and specialised medical procedures are provided by the public health service and paid for from the prison health care budget.

Alcohol is considered to be a more serious problem in Polish prisons than drugs. Treatment programmes are in place for prisoners with an alcohol or drug dependency. For prisoners with problems in respect of alcohol there are 11 units with 400 places and this is considered by the prison medical service to be insufficient. The treatment is based on the Atlantis project. Prisoners are out of their cells for 12 hours a day, wearing their own clothes and they are required to eat together. There are about 1,000
drug addicts in the prisons and a treatment programme lasting six months is provided for 300 patients in 10 units.

In accordance with WHO guidelines prisoners are not routinely tested for HIV/AIDS, and prisoners who are HIV positive are not segregated from others. They are given anti-viral drugs in co-operation with the National Centre for Communicable Diseases in the community. The Ministry of Health supplies and pays for the drugs.

All prisoners are tested for tuberculosis and there is a treatment programme available. The disease is not spreading within the prisons. On admission prisoners are x-rayed and they are then x-rayed again on an annual basis. There are four TB wards in the prison system. The incidence of TB in the prisons is about seven times the rate in the community. The number of cases is going down.

Rules for specific groups: The age category of young prisoners, which entails special provisions being made for them, which was previously up to 21 years, has been extended to 24 because it is considered that young prisoners up to this age are more responsive to rehabilitative measures. They are given priority access to education, especially if they did not complete their primary school education or have no professional skills.

There are special provisions for women. Specialist care is offered to pregnant and breast-feeding women. There are two ‘houses for mothers and children’, where the children can remain with the mothers up to the age of three. In principle, women are held in semi-open institutions. Pregnant or breast-feeding women cannot be punished by placement in an isolation cell.

Disciplinary charges: All prisoners against whom a disciplinary charge is brought are given the opportunity to present their defence in person. The new Penal Executive Code, unlike the old one, sets out a complete list of penalties available, including admonition, a ban on taking part in recreational activities, on receiving packages with food, a reduction in remuneration for up to three months, and solitary confinement for up to 28 days.

Solitary confinement as a punishment: It is reported that solitary confinement is being used less in Poland and the number of isolation cells in the prisons is being reduced. It is said by the prison administration that it is only used in circumstances where the behaviour concerned almost amounts to a crime and that this policy can be followed as a result of the low level of tension in the institutions.

Requests and complaints: The legislation authorises prisoners to make requests and complaints.

Communications: Subject to the prior consent of the public prosecutor or the court, pre-trial prisoners have the right to receive visits and communicate in other ways, for example, by letter and telephone, with family members and friends. Visits may last for 60 minutes. Sentenced prisoners in closed prisons are permitted two visits each lasting 60 minutes. In semi-open conditions the allowance is three such visits and for prisoners in open conditions an unlimited number of visits. All sentenced prisoners are allowed at least one visit a month. There are specific rules concerning
correspondence for pre-trial detainees and concerning correspondence and use of the telephone for sentenced prisoners.

**Activities:** At the beginning of 2001 work was available for 27.2% of the sentenced population, of whom less than 21% were in paid work. Some four per cent of pre-trial detainees were in paid employment. The Penal Executive Code requires that the sentenced prisoner as far as possible shall be provided with the opportunity to work and that their remuneration should be no lower than the minimum pay of employees outside. In practice, prisoners generally receive 50% of what is left after 10% has been deducted for the post-release assistance fund. There are legislative requirements in respect of work by pre-trial detainees, and remuneration for such work.

Other activities available to occupy sentenced prisoners during a normal day include education and vocational training. There are 70 prison schools (out of 156 prisons) and 66 vocational training courses. Cells are open for at least eight hours (for prisoners in a closed regime with work), for three to four hours (for prisoners in a closed regime without work), the whole day (in semi-open regime), day and night (in an open regime). The Penal Executive Code grants prisoners the right to study and be involved in artistic creativity and access to cultural, educational and sports equipment and activities, to radio, television, books and newspapers.

**Exercise:** Sentenced prisoners are reported to have at least one hour a day a day of walking or suitable exercise in the open air. Pre-trial detainees are also reported to be allowed at least one hour a day of walking or suitable exercise in the open air.

**Access to a legal representative:** The Penal Executive Code grants pre-trial prisoners the right to communicate with a lawyer and to prepare their defence. Likewise, it gives sentenced prisoners the right to communicate with an attorney in private and by means of letters and telephone calls.

**Sources**
MacDonald M., 2001 Prison Health Care in the Czech Republic, Hungary and Poland. HEUNI Paper No.16, HEUNI, Helsinki.

**PORTUGAL**

**Significant points:** The prison population is lower than it was in 1998. In 1992 there were 9,183 prisoners. In 1998 there were 14,598. In September 2003 the prison
population was 14,060, giving a rate of 134 per 100,000. Of these 29.2% were pre-trial, 8.1% were female, 2.1% were juveniles and 12% were foreign nationals.

The Ministry of Justice is responsible for prison administration and there are 59 penal establishments.

The prison administration in Portugal is regulated by the Decreto-Lei (Decree-Law) No. 265/79 of 1 August 1979, which has been annotated through a series of explanatory circulars. The preamble to the law indicates that it has been framed taking account of international legislation and standards. In practice, however, the standards achieved fall short of the legal provisions.

A series of adverse reports in 1998 and 1999 from CPT amongst others pointed to serious concerns regarding allegations of ill treatment of prisoners by officers and unacceptable conditions of detention. The prison administration responded by strengthening the initial training of staff and including a module on human rights.

The Ombudsman published two critical reports on prison conditions in 1996 and in 1999. In April 2002 the Director General of the Prison Service (DGSP) submitted a report setting out his concerns at the lack of finance and staff and the deterioration of conditions for prisoners. He also reported worsening health conditions amongst prisoners and unhygienic conditions in several prisons, including lack of adequate toilet facilities.

In February 2004 an official report from a committee appointed by the Ministry of Justice described Portugal's prison system as the worst in the European Union. The report cited overcrowding, poor sanitary conditions and a lack of alternatives to custodial sentences as among the main problems. The committee found that Portugal's 55 prisons are 18% over capacity and some are in dire condition. Some 40% of inmates are in prison for drug-related offences which experts say shows a failure to tackle the causes of drug taking and trafficking. HIV infection rates are the highest in the EU. Even before the report was officially released, the government pledged an overhaul of the system.

**Inspections by an independent body:** A General Inspectorate of Justice Services has been established under the law setting out the organic structure of the Ministry of Justice. It is responsible for auditing and inspecting all the services of the Ministry of Justice and for receiving and investigating any complaints of illegality in the way in which the various services carry out their statutory duties. The sentence execution judge also has significant powers of inspection and is required to visit the prison at least once a month. The Ombudsman also monitors the conditions in prison either on his own initiative or in response to complaints lodged with him by prisoners.

**Separation of prisoners by category:** There should be strict separation of prisoners on the grounds of sex, age and judicial status (pre-trial or sentenced). In each of those categories the administration also seeks to separate first offenders from repeat offenders. Ideally there should be different establishments but, if not, there should at least be separate sections within the relevant mixed establishments. In practice there are very few specialist institutions. For example, in November 2003, according to prison service statistics, every prison contained both sentenced and unsentenced
prisoners. The US State Department reports that although there was one youth prison in Leiria, juveniles were at times held with adults elsewhere in the prison system.

**The use of individual and shared accommodation:** The basic principle is that each prisoner should be housed in an individual cell but regulations allow for prisoners to be held, with their consent, in dormitory accommodation in open prisons. Prisoners may also be required to share cells in closed prisons if there are reasons of urgency. In practice cell sharing is very common, especially in the overcrowded pre-trial prisons/wings.

**Overcrowding and space per prisoner:** In November 2003 there were 14,000 prisoners (±50) against an official capacity of 11,603, giving an overcrowding rate of approximately 120% (CPT reported an overcrowding rate of 142% in 1999). The overall position masks very wide variations with some prisons – especially small regional prisons – holding more than double their official capacity whilst others are below capacity. In the report of their visit to Portugal in 1999 the CPT drew attention to the heavy incidence of cell-sharing in the pre-trial prisons which they visited. The Prisons Inspection and Audit Service of the DGSP works to criteria based on single occupancy cells measuring at least 7 m² and having a volume of at least 20 m³ and collective accommodation providing at least 4 m² and 12 m³ per prisoner. CPT observed the practice of up to three prisoners being held in cells of 7m² and 9m². Exceeding the official capacity of the prison may only be authorised by the prisons inspectorate. Although the regulations for prison administration state that the official capacity of any prison should not exceed 400 to 500, eight of the central prisons have an official capacity in excess of 500. New prison places standing unused were brought into use in 2003 by the Government hiring and training approximately 700 guards.

**Physical conditions:** All rooms – cells, dormitories, workshops, visits rooms – must be fitted with appropriate furnishings, space, lighting and ventilation. The lighting, whether natural or artificial, must allow suitable conditions for work and for reading. One of the specific duties of the prison doctor is to monitor the lighting, ventilation and sanitation of the prison. Discipline cells must also conform to norms of habitability in terms of furniture, space, lighting and ventilation.

The prison authorities have been undertaking a programme of new building and renovation of older buildings as a result of which almost all prison accommodation now has a ‘sanitary annexe’ in each cell or dormitory. Pre-trial prisoners are allowed to wear their own clothing and are personally responsible for the expense incurred in maintaining it in a clean and decent condition.

Prisoners are responsible for the cleanliness of their own accommodation. Failure to maintain cells in a clean condition is a disciplinary offence. The prison doctor is responsible for inspecting the cleanliness of the buildings and of the prisoners and for advising the prison director of any concerns.

**Food:** The DGSP must provide food which is prepared and presented in accordance with modern standards of nutrition and hygiene and which is of an appropriate quantity and quality.
**Medical care:** Within the DGSP there is a separate Directorate of Health Services which administers healthcare services in prisons. Where necessary prisoners may also have access to the facilities of the national health service.

In its response to the CPT visit of 1999 the government indicated that healthcare is always provided free of charge except where prisoners wish to see a doctor of their own choice. With regard to specialist care the government drew attention to the protocol of March 1997 between the Ministry of Justice and the Ministry of Health which established closer collaboration between prisons and regional health administrations. In the report of its visit the CPT noted severe delays in prisoners gaining access to medical care. It further reported that in general medical confidentiality was being respected and medical records were of a high standard.

Reports from NGOs and others in 2002 indicated that access to medical care continued to present severe problems in some areas.

There are special psychiatric units within the prison system. In December 2002 they held 146 prisoners. There are special programmes for the treatment of drug-dependent prisoners elaborated in the Resolution of the Council of Ministers, No. 46/99 of 26 May 1999. All prisons provide detoxification, substitution treatment, vaccination, disinfectants and condoms. Approximately 30% of the prison population had Hepatitis B or C, and 14% are HIV-positive. According to the DGSP, 100 persons died in prisons during the year, 15 of them by suicide (compared with 97 deaths, 19 by suicide, in 2002). A study released during the year claimed that the country has the highest prisoner mortality rate in the EU.

**Rules for specific groups:** Young people (16-21) should be housed in separate establishments or wings away from adult prisoners. Prisoners who were under 21 at the start of their sentence may be allowed to remain in these young prisoner units until they are 25. Women should be housed in separate establishments or wings. There are specific rules for the detention of women, especially those who are pregnant or have children under the age of three. There are specific references to the distinctive needs of young people, old people and women throughout the regulations on prison administration.

**Disciplinary charges:** Prisoners have the right to be informed of any disciplinary charge against them and to be heard before any decision is made. They may appeal to the sentence execution judge. There is no further right of appeal against the decision of the sentence execution judge.
Solitary confinement as a punishment: A prisoner may be placed in solitary confinement for security reasons only if all other security measures are ineffective or inadequate. Any uninterrupted period of solitary confinement may not exceed one month and periods over 15 days must be authorised by the General Directorate. The special security cell must be free from objects which may cause harm; in all other respects it should be the same as any normal cell. Prisoners in solitary confinement must be seen by the prison doctor as soon as possible after their segregation and frequently thereafter. The doctor must inform the prison director of the prisoner’s mental and physical condition and should advise the director if there is a need to modify the treatment.

Requests and complaints: Prisoners have the right to correspond without hindrance with the Ombudsman, the European Court of Human Rights, the President, the Prime Minister, consular and diplomatic authorities, the sentence execution judge and the Director General of Prison Services. They also have the right to submit their complaints, orally or in writing, to prison staff, the prison director and the inspectorate. The inspectorate will determine the conditions under which they will interview prisoners. Prisoners may also raise complaints with the sentence execution judges during their visits to the prison. There are disciplinary and criminal sanctions for the wilful prosecution of unfounded complaints.

Communications: All prisoners are entitled to send and receive letters. Prisoners may be authorised by the director to make telephone calls, especially to family members.

Activities: Prisoners are obliged to work except for reasons of age, infirmity or pregnancy. The number of prisoners actually in work is low. The DGSP has established a working group to develop greater opportunities for employment for prisoners through ‘Prison Economic Zones’. Protocols exist with both public and private organisations for the development of employment opportunities, both inside and outside prison, for prisoners who are in an open regime.

Rates of pay for prisoners are set by the Minister of Justice on the advice of the DGSP. They are based on equity with rates paid in the outside community and taking into account the costs of detention. Prisoners’ wages are divided, with a proportion going to any family who may be entitled to a maintenance payment and to meet any victim compensation, fines and court costs. The remainder is split between a disposable and a reserve account, the latter being payable to a prisoner on discharge from prison. A small allowance is paid to any prisoner who is unable to work because of age or infirmity.

There is a programme of activities including education, vocational training, socio-cultural activities and sport. Statistics released by the DGSP show that in December 2002 there were 2,291 prisoners following educational courses and 766 following programmes of vocational training out of a total prison population of 13,772. All prisoners retain their constitutional right to continuing education.
Exercise: All prisoners who do not work outdoors are entitled to two hours of outdoor exercise each day. In exceptional circumstances this may be reduced but should never be less than one hour per day. The CPT report of 1999 stressed the need to ensure that all prisoners are offered at least one hour of outdoor exercise each day. They reported instances where that was not the case.

Access to a legal representative: All prisoners are entitled to receive visits from their defence lawyers, which may take place outside normal visiting times. These visits must be out of hearing of the prison guards. Letters to legal representatives are not subjected to scrutiny or censorship.

Sources
Decreto-Lei No. 146/2000 (establishing the General Inspectorate of Justice Services).
Decreto-Lei No. 174/93 (selection, training and duties of prison staff).
Decreto-Lei No. 265/79 (regulating prison administration).
Decreto-Lei No. 783/76 (dealing with the role of the supervisory judge).
Official website of the Direcção-Geral dos Serviços Prisionais <www.dgsp.mj.pt>
Resolution of the Council of Ministers No. 46/99 (treatment of drug dependent prisoners).
Ministry of Justice <www.mj.gov.pt>
Circular 3/94/DEP/1 of 11 November 1994, (forbidding scrutiny or censorship of correspondence with legal representatives).
Portaria No. 722/95 of 6 July 1995 (regulating staff training courses).

SLOVAKIA

Significant points: The prison population is increasing. In 1992 there were 6,311 prisoners, in 1998 there were 7,409. In September 2003 the prison population was 8,829, giving a rate of 164 per 100,000. Of these 33.1% were pre-trial, 2.5% were female, 0.7% were juveniles and 2.3% were foreign nationals.

The Ministry of Justice is responsible for prison administration and there are 18 penal establishments.

New legislation in 2000 concerning prison staff seeks to combat changes in security circumstances (the fear of security being endangered by organised crime groups) and the need to protect prison sites. One pre-trial prison has been rebuilt with a modern design. A new pre-trial prison has been opened and security improvements have been made in various prisons. However, the US State Department reports that overcrowding among pre-trial detainees increased from 115 to 128% in 2003.

Inspections by an independent body: Independent inspections are conducted regularly by a special prosecutor who has authority over prison directors, to whom he
can give warnings, recommendations and orders. It was reported, however, that few orders were ever given and that he will often simply draw something to the attention of the prison director who will make the necessary change. There is no system of formal independent inspections of the prisons apart from this. However, members of the National Council of the Slovak Republic carry out what the Government has referred to as civil control. In 2003 the Slovak Helsinki Committee negotiated a formal agreement with the General Management of Prisons to monitor conditions in all jails holding convicted prisoners.

Separation of prisoners by category: The prison administration reports that untried prisoners are always detained separately from convicted prisoners and women prisoners separately from men. Juveniles under 18 are kept separate from adult recidivists but sometimes allowed to mix with young adults serving their first sentence for a less serious crime.

The use of individual and shared accommodation: It is not customary for prisoners to be housed in single cells. Two or three prisoners normally share one room. The largest number of prisoners held in one room is said to be 22.

Overcrowding and space per prisoner: There was no reported overcrowding in the Slovak prison system in 2002. The standard specification of the amount of space considered necessary for each prisoner, established by law, is 3.5m². The capacities of the penal institutions are understood to be based on the standard specification. The CPT has recommended that the living space standard be raised to at least 4m² per prisoner and the official capacities and occupancy levels of cells and dormitories be reduced accordingly. The occupancy level of the system as a whole was 83.2% at 1 September 2002 (9,435 places, 7,849 prisoners), since when the prison population has risen to 8,829 (at 1 September 2003).

Physical conditions: Sanitary arrangements are reported to be adequate Every prisoner is able to have a bath at least once a week and more often if recommended by a doctor. Pre-trial detainees are allowed to wear their own clothing if it is clean and suitable.

Food: The prison administration reports that it is able to provide a balanced diet, including meat, fruit and vegetables.

Health care: Medical services in prisons are covered by the legislation that governs such services in the community. It is reported that health care is better in the prisons. For example, health care centres outside are overcrowded with long waiting times, but prisoners face no such delays. If a prisoner needs a specialist examination in a civil hospital, he has priority over other citizens. The public are said to be critical of such privileges. The prison service works closely with outside hospitals, liaising with the Ministry of Health. There is also co-operation with the civilian doctors who work in prisons on contract. There is however no expectation of the prison service’s responsibility for the health care of prisoners being transferred to the Ministry of Health.

The drug problem in Slovak prisons is getting worse. Drug treatment ordered by the courts is provided in four prisons. The courts also order specific treatment for
alcoholism, sexual deviation and mental illness; there are some 230 such orders per year and the system has been in operation for 28 years. Drug treatment is also given on a voluntary basis for younger prisoners at two prisons. Treatment programmes are also in place for prisoners with an alcohol dependency. In accordance with WHO guidelines prisoners are not routinely tested for HIV/AIDS; there were only three cases between 1990 and 2001. There is also a treatment programme for prisoners suffering from tuberculosis; there are very few cases (20 in the year 2000) and all of them were discovered on arrival in prison from the community.

**Rules for specific groups:** Special attention is given to the needs of juveniles. The ‘pedagogues’ responsible for prisoners’ daily programme have much smaller groups of juveniles (10) than those responsible for the programmes of adults (30). There is a purpose-built prison for women and all the women there have work.

**Solitary confinement as a punishment:** The maximum length of time that a sentenced adult male prisoner can be held in solitary confinement is 20 days. For pre-trial detainees it is 10 days. For women and juveniles the maximum is half as much, and they are only isolated after completing the working day. Prisoners in disciplinary confinement have mattresses, reading material and normal exercise in the open air but they are not allowed visits.

**Requests and complaints:** The address of the CPT is prominently displayed in prisons. The CPT has recommended that the Slovak authorities conduct a review of the procedures used to process prisoners’ complaints, with a view to ensuring that they offer appropriate guarantees of independence, impartiality and thoroughness.

**Communications:** The investigating authority decides whether pre-trial detainees may receive visits and communicate in other ways with family members and friends. Sentenced prisoners may be visited every two, four, or six weeks according to the Correctional Group into which they have been classified. Prisoners in Correctional Group III, those convicted of serious offences, can have visits only every six weeks.

**Activities:** Work is available only for about 60% of the sentenced population and for only a handful of pre-trial detainees. Remuneration is the same as for free citizens doing similar work. Part goes to family, part as compensation to victims, part to the institution for costs, part into the prisoner’s account, and no more than E12 can be spent in the prison as pocket money.

Other activities available to occupy sentenced prisoners during a normal day include a small amount of education or vocational training. First offenders are locked in their rooms only at night, serious offenders are unlocked only for work, exercise, sport and organised cultural activities. Pre-trial detainees are allowed out of their cells for a minimum of one hour per day.

**Exercise:** In accordance with the legislation (Act No. 59/1965, as amended and Act No. 156/1993, as amended) sentenced prisoners and pre-trial detainees are reported to have at least one hour a day of walking or suitable exercise in the open air.

**Sources**
SLOVENIA

Significant points: The prison population is increasing although the imprisonment rate is still one of the lowest in Europe. In 1992 there were 836 prisoners, in 1998 there were 756. In September 2003 the prison population was 1,099, giving a rate of 55 per 100,000. Of these 23.8% were pre-trial, 3.6% were female, 1% were juveniles and 15.3% were foreign nationals.

The Ministry of Justice is responsible for prison administration and there are seven penal establishments.

A new Penal Sanctions Enforcement Act was introduced in 2000, which regulates the enforcement of penal sanctions and defines the responsibilities and tasks of bodies responsible for enforcement and for commercial activities that allow the possibility of work for prisoners. In recent years the official capacity of institutions has been reduced in order to allow every pre-trial detainee and sentenced prisoner to have at least 7m² of space.

Inspections by an independent body: Independent inspections are conducted by the President of the district court in which the institution is situated (who has the duty of visiting monthly), the Human Rights Ombudsman. In response to a suggestion of the CPT, the Ministry of Justice sent a note to the courts appointed to supervise penal institutions, reminding them that judges should make themselves ‘visible’ to the prison authorities and staff and the prisoners, and should not limit their activities to seeing persons who have requested to meet them but should visit the areas where prisoners are held and take the initiative in making contact with them.

Separation of prisoners by category: The prison administration reports that untried prisoners are always detained separately from convicted prisoners, women prisoners separately from men, and juveniles (under 18) separately from adults.

The use of individual and shared accommodation: Few prisoners are accommodated in single cells. The vast majority are in rooms for no more than eight. The largest number of prisoners held in one room is said to be 14.

Overcrowding and space per prisoner: Overcrowding exists both in pre-trial institutions and in accommodation for sentenced prisoners. The standard specification of the amount of space considered necessary for each prisoner, in accordance with prison regulations, is 9m² in single rooms and 7m² in rooms with multiple occupancy. The capacities of the penal institutions are based on the standard specification. The
occupancy level of the system as a whole was 103.0% at 1 September 2003 (1,067 places, 1,099 prisoners).

**Physical conditions:** Every prisoner is able to have a bath or shower at least once a week and in practice this occurs on average twice a week. Pre-trial detention detainees are allowed to wear their own clothing if it is clean and suitable.

**Food:** It is reported that prisoners receive a balanced diet, including meat, fruit and vegetables.

**Health care:** The prison service employed only six medical staff at the end of 2001, five nurses and one doctor. Other doctors including psychiatrists are on contract. Civilian hospitals are used if hospital treatment is needed. The CPT recommended, following their visit in September 2001, that staffing levels and hours of attendance of health care personnel at the three prisons visited be reviewed.

Many prisoners have an alcohol or drug problem and the number is increasing. Some treatment programmes are available. Prisoners can also benefit from links that have been established with outside centres for the treatment of addiction; these are therapeutic communities to which prisoners may be admitted after their release. In accordance with WHO guidelines prisoners are not routinely tested for HIV/AIDS, and prisoners who are HIV positive are not segregated from others. Tuberculosis has not until now been a problem in the prison system but the numbers are increasing and a treatment programme is in place.

**Disciplinary charges:** Prisoners who are the subject of disciplinary proceedings may appeal against any punishment imposed. Twenty prisoners appealed against decisions to impose a disciplinary punishment in the year 2000.

**Solitary confinement as a punishment:** The maximum length of time that a prisoner can be held in solitary confinement is 21 days.

**Requests and complaints:** The CPT is among the authorities to which a confidential complaint can be made. So are the Director General, the Minister of Justice, the Human Rights Ombudsman and other national and international bodies.

**Communications:** Pre-trial detainees may receive visits subject to the approval of the prosecutor concerned. This is generally allowed once a week although close relatives may be permitted to visit up to three times a week. Sentenced prisoners can be visited at least twice a week for at least one hour. Private (intimate) visits are available in some prisons, likewise long visits for families involving an overnight stay. All sentenced prisoners are allowed visits at least once a month.

Prisoners have the right to free correspondence with close family members and with other persons subject to the prior approval of the director of the prison. Monitoring of letters is only permissible if there is reasonable suspicion that objects are enclosed that prisoners are prohibited from possessing. In such cases the prisoner must open the letter in the presence of a guard, who is not allowed to read it.
Prisoners have the right to conduct telephone conversations with close family members, with another authorised person, with the Human Rights Ombudsman, a consular representative or a representative of an official organisation for the protection of refugees. Telephone conversations with close family members can be prohibited on security grounds. Pre-trial detainees also have the right to speak to family members and friends by telephone.

**Activities:** Work was available for 66% of the sentenced population in 2001 and for 15% of pre-trial detainees. This is the highest percentage of pre-trial prisoners with work in all central and eastern European countries. The average remuneration for prison work was 4,984 Tolars (E21) per week. The new Penal Sanctions Enforcement Code for the first time defines work as a right of prisoners and no longer as an obligation. However the statutory provision making work compulsory had not been enforced for many years.

Prisoners are unlocked from cells 17 hours a day in closed units, otherwise 24 hours. There is work for 15% of pre-trial detainees. They are usually out of their cells for three to four hours a day. There are various activities available to occupy them.

**Exercise:** Sentenced prisoners and pre-trial detainees are reported to have at least two hours a day of walking or suitable exercise in the open air.

**Sources**

**SPAIN**

**Significant points:** The prison population is increasing. In 1992 it was 35,246. In 1998 it was 44,763 and in January 2004 it was 56,244. Of these 22.6% were pre-trial detainees, 7.9% female prisoners, and 0.3% juveniles. The proportion of foreign prisoners was 25.5%.

The regulations with regard to prison administration in Spain are determined by the General Penitentiary Law (Law 1/79 of 26th September 1979) and the Penitentiary Regulations (Royal Decree 190/1996, of 9th February 1996). Legislation generally incorporates relevant international standards on the treatment of prisoners. Although international standards are provided for in law, in practice there are a number of issues of concern. For example, severe overcrowding means that, although there is a policy of single cell occupancy, in practice a high proportion of prisoners are held two to a cell designed for one.

Concern has also been expressed about the treatment of foreign prisoners and those held under close observation (*Fichero de Internos en Especial Seguimiento, FIES*).
The latter was the subject of particular comment from the United Nations Committee against Torture in its response to the fourth periodic report submitted by the Spanish government in 2002. The Committee expressed concern at the severe conditions of detention for those in the highest security category (generally convicted of terrorist offences). They also noted the fact that certain prisoners (generally those suspected of terrorist offences) may be kept *incommunicado* and without access to lawyers or medical examination for up to five days following their arrest. The Committee concluded that the physical conditions of imprisonment of these prisoners are at variance with prison regulations aimed at their rehabilitation. The Committee also noted a discrepancy between the report submitted to it by the Spanish government and those supported by NGOs and other agencies. The US State Department reports that, suspects charged with terrorism at times asserted that they were abused during detention, as did suspects in other types of detention.

The CPT noted after its 2001 visit that the Government had not complied with some of its recommendation and once again recommended that the Government reduce from five days to two the maximum period allowed for authorities to notify relatives or other persons of the fact and place of a subject's detention, that persons held in *incommunicado* detention be allowed a medical examination by a doctor of their own choice and receive written information regarding this proposed right, and that detainees be provided with more immediate access to a lawyer.

Reports from a number of other agencies, including prison staff, in 2002 also expressed concern at the deterioration of conditions and an increase in violent incidents resulting from overcrowding.

Prevention of communicable diseases is one of the highest priorities for public health policies in prisons since the proportion of HIV infected prisoners in Spanish prisons is 15% and of hepatitis C it is 40%. Prisoners account for one per 1000 Spanish inhabitants but seven per cent of those with AIDS.

**Inspections by an independent body:** Supervisory judges are required to visit the prisons. In the report of their 1998 visit the CPT noted that the supervisory judges did not appear to be visiting frequently or dealing promptly with complaints submitted to them by prisoners. The CPT recommended that the supervisory judges should be encouraged to visit the whole of a prison's premises when carrying out their duties and to enter into direct contact with both prisoners and prison staff.

The Ombudsman has an important role with regard to prisons. He reports annually to parliament on penitentiary affairs and may act either *ex officio* or at the request of an individual. He has the power to visit any prison and to conduct such investigations as are appropriate. There is also a separate inspectorate of prisons together with other administrative controls.

**Separation of prisoners by category:** Article 16 of the General Penitentiary Law requires that all prisoners should be segregated immediately on arrival in prison in accordance with the following principles. Men and women must be detained separately except where specifically allowed by regulation; unconvicted prisoners must be kept separately from convicted and, in both cases, first offenders separate from repeat offenders; young persons must be detained separately from adults. Those
who are ill or who show mental or physical disorder should be held separately from those who are capable of following the normal regime of the prison.

Articles 173 to 178 of the Penitentiary Regulations set out a specific and distinctive regime for any prisoner under the age of 21. Exceptionally this may also be extended to prisoners up to the age of 25. The regime is based on education and preparation for work, leisure and culture. There is also an emphasis on physical activity. The same articles also require that the buildings and atmosphere must be conducive to this regime. Prisoners attaining the age of 70 and those suffering from very serious or incurable illnesses will be considered for conditional release. Specific conditions also exist for the detention of women, especially those who are pregnant or have children under the age of ten, and pre-trial prisoners.

The use of individual and shared accommodation: The prison system is based on the cellular principle. Each prisoner is entitled to an individual cell except where the size and general conditions of the cell would allow multiple occupancy without prejudicing the privacy of each individual. In such cases cell sharing may be authorized at the request of the prisoner except where this is inadvisable on medical or security grounds.

Overcrowding and space per prisoner: More than one prisoner may be housed in a cell when the prison population exceeds the number of places available provided that the cell is sufficiently spacious and the privacy of the individual can be maintained. In its visit in 1998 the CPT noted that cells designed for single occupancy in the prisons visited measured between 8.5m² and 10.5m², a size which offers sufficient living space for one prisoner. However, in all the establishments visited, the majority of prisoners were being accommodated two to such cells. Since that time the government has invested in new buildings and has introduced legislation in an attempt to reduce the numbers in prison. Between 1999 and 2003, however, the numbers in prison rose from 39,000 to 54,000. The number of prisoners had fallen, immediately following the introduction of the new Penal Code in 1996, from almost 48,000 in 1994 to 39,000 in 1999. The official capacity of the prison system at September 2002 was 45,320.

Physical conditions: The visit by CPT in 1998 noted that all cells in the prisons inspected had integral washbasin and lavatory.

Health care: All prisoners are guaranteed access to a level of medical care equivalent to that available to the general population. Under the provisions of the same article of the regulations they are also entitled to any pharmaceutical products and any other treatment which derives from that basic entitlement. The rights of prisoners to effective medical attention are further protected by agreements between the prison administration and relevant health authorities. Each prison must have an appropriately staffed primary care facility equipped and administered to public health standards. Prisoners have access to the secondary care facilities in the general community as appropriate. The Prison Administration is responsible for the costs of any prisoners who are not affiliated to the national social security scheme. Medical records are confidential. All prisoners are entitled to clear and intelligible information about their state of health.
Special programmes are available for prisoners who are drug-dependent or HIV-positive. These include group therapy inside the prison and access to therapeutic communities outside prison for those prisoners who are on the appropriate regime. There is a programme of needle exchanges and free access to condoms, which are supplied as part of the prisoner’s initial kit on entry to prison. These measures have shown good results. Hepatitis B cases have been greatly reduced. HIV infection has been reduced from 32% in 1989 to 15% in 2002 and hepatitis C had been reduced from 46% to 40% between 1998 and 2001.

**Disciplinary charges:** The investigating officer must inform the prisoner if a charge is to be brought to the disciplinary commission and must also inform him of the right to present a case to the disciplinary commission at its next meeting. Prisoners have the right of appeal to the supervisory judge against any disciplinary sanction. Disciplinary sanctions are not normally implemented until the supervisory judge has ruled on an appeal but in cases involving serious indiscipline they may be implemented immediately. The supervisory judge must be notified immediately of any appeal against cellular confinement.

**Solitary confinement as a punishment:** Solitary confinement is generally served in the prisoner’s own cell unless the cell is shared or the prisoner’s own security or the good order of prison makes it inappropriate. Solitary confinement of more than 14 days cannot be implemented without the approval of the supervisory judge. A doctor must see the prisoner and approve before solitary confinement is enacted and every day thereafter. He can ask for solitary confinement to be suspended or reduced on health grounds. A prisoner undergoing solitary confinement is entitled to two hours’ exercise each day.

**Requests and complaints:** Prisoners may submit oral or written requests and complaints, in confidence if required, to prison staff including the prison director. They also have the right to submit uncensored requests and complaints to the Public Ombudsman. They have the right to submit requests and complaints in confidence to the supervisory judge.

**Communications:** The General Penitentiary Law and the Penitentiary Regulations make no distinction between pre-trial and convicted prisoners with regard to visits and communications. There is no limit on the number of letters any prisoner may send or receive. Subject to the approval of the prison director prisoners are allowed to make a maximum of five telephone calls per week (five minutes each) at their own expense to: family members if they live a long distance away or are unable to visit; defence lawyers if the prisoner has something urgent to communicate. Prisoners are allowed to telephone their family and lawyer at the prison’s expense immediately they arrive in prison and on transfer to another prison.

Prisoners may receive two visits per week of a minimum of 20 minutes, with up to four people at a time. The visits may be accumulated into one visit per week if appropriate. Prisoners who are not entitled to home leave permits may receive one family/intimate visit per month of not less than one hour and not more than three hours. All closed prisons must have suitable facilities for family/intimate visits.
Activities: Sentenced prisoners have a right and a duty to work in line with the basic principle that prison sentences should consist of individualised treatment aimed at successful reintegration into society. Work available to them should be neither afflictive nor degrading. Remuneration and general conditions of employment are based on equivalence with employment in the general community. Prison work is the responsibility of a separate agency, OATPP. The work provided falls into three broad categories: workshops run by the prisons service; workshops run by outside organisations; general services provided to the prison, such as cleaning and catering. In practice the number of work placements is insufficient to meet the needs of all prisoners. The regulations set clear priorities for the allocation of jobs. In 2001 there were approximately 8,000 work places; slightly under half were in conventional workshop industries.

There is a substantial educational, vocational and cultural programme. The programmes of education and vocational training are linked to those provided in the general community. There is a strong emphasis on general education and basic skills addressing the previous low educational attainment of many prisoners. Means-tested grants are available for distance learning. Regulations permit the in-cell use of personal computers for valid educational reasons.

Exercise: The CPT visit of 1998 noted that most prisoners were able to spend a substantial amount of time out of cell.

Access to a legal representative: Communications between prisoners and their lawyers on penal matters may not be suspended or obstructed except on the orders of a judicial authority and where terrorist activity is suspected. The prison must provide appropriate facilities for interviews between lawyers and their clients. Prisoners may see their lawyers as often as is necessary.

Sources
Penitentiary Regulations: Royal Decree 190/1996, of 9th February 1996
Ministry of Interior and General Directorate of Prisons.
Penal Code, 10-1995.
Ministerial Order of 10 February 2000 (approving regulations for the Centre for Penitentiary Studies).
SWEDEN

**Significant points:** The prison population is increasing. In 1992 there were 5,431 prisoners. In 1998 there were 5,290. In September 2003 the prison population was 6,473, giving a rate of 72 per 100,000. Of these 26.8% were pre-trial, 5.3% were female, 0% were juveniles and 27.2% were foreign nationals.

The Ministry of Justice is responsible for prison administration and there are 83 penal establishments.

The CPT has expressed concern over several years about the strict conditions in which pre-trial prisoners are held. In 1998 the CPT called for changes to the law to allow appeals against such restrictions and in 2003 they noted that satisfactory measures had still not been taken. The courts were still not informed of the specific restrictions which a prosecutor intended to impose, and the grounds for imposing those restrictions were not systematically recorded. In these circumstances, it would remain very difficult for remanded persons, or their lawyers, to challenge effectively the restrictions imposed upon them. In this connection, lawyers with whom the delegation spoke indicated that appeals against the imposition of restrictions rarely, if ever, succeeded. The delegation also noted that, in the context of the periodic review by the court of the need to maintain remand, the question of the need to maintain restrictions could be handled by the simple written assertion by prosecutors that ‘restrictions are still required’ which was, quite literally, ‘rubber-stamped’ by the court to which it was addressed.

**Inspections by an independent body:** It is the Parliamentary Ombudsmen’s duty to inspect authorities under their supervision: central government agencies, county administrative boards, courts, prisons, the police, and military authorities. There is no prisons inspectorate.

**Separation of prisoners by category:** Women prisoners are held separately from men, juveniles separately from adults and, in general, pre-trial prisoners are held separately from convicted prisoners.

**The use of individual and shared accommodation:** Most prisons are rather small with a capacity of, on average, only 45 beds. There are only a few larger prisons, with a capacity of 100 to 200 beds, which house prisoners convicted of serious crimes and sentenced to long terms of imprisonment. The majority of prisoners in Sweden have their own cell. In some open prisons there are a few cells for more than one prisoner.

**Overcrowding and space per prisoner:** At 1 October 2002 the prison population was 6,506 and the occupational capacity was 6,051, giving an occupancy level of 107.5%. Regulations require that the floor area shall be at least 6m$^2$, the cubic measurement of the room shall be at least 15 cubic metres and the height of the room at least 2.4 metres.

**Medical care:** A medical officer attends each prison. Prisoners can also be referred to specialists and/or to local hospitals. It is the goal of the Swedish authorities to provide prisoners with health care services of the same standard as that available in the outside community.
At all three of the prisons visited by the CPT in 1998, the delegation found that it was comparatively unusual for prisoners to be physically examined by the establishments' doctors, whether on reception, or at a later stage. As regards, more particularly, medical screening on reception, this consisted of an interview with a nurse on the day of, or the day following, admission. Prisoners might only be seen by a doctor some considerable time after admission, for example, one week or more, and frequently would not be physically examined even at that stage.

In its 2003 report the CPT noted that the existing resources in terms of psychiatric and nursing care made it difficult to fully meet the needs of the prisoner population. Detoxification is available in prisons and condoms are available but not substitution treatment or disinfectants.

**Discipline:** The CPT expressed concern in its 2003 report about the extremely impoverished regime offered to prisoners held for prolonged periods in segregation for their troublesome behaviour and about the damaging mental health consequences on prisoners, observed by the delegation, of prolonged isolation.

**Rules for specific groups:** The CPT recommended in 1998 that a court be given the power to conduct a meaningful review of a prosecutor’s decision to impose particular restrictions on pre-trial prisoners and that prisoners be given an effective right of appeal against a court’s decision to maintain specific restrictions which have been the subject of a review. However, in 2003 the CPT noted that remand prisoners subject to restrictions spent up to 23 hours per day locked in their cells.

**Requests and complaints:** Most matters concerning prisoners are determined by the local prison authorities, but some decisions are taken by the National Prison and Probation Administration. If a prisoner is dissatisfied with a decision taken by a local prison authority, he or she may appeal to the National Prison and Probation Administration to rescind the decision. If the prisoner is still dissatisfied, he or she may appeal to the county administrative court. Prisoners who feel that they have been treated unjustly may lodge a complaint with the Parliamentary Ombudsmen.

**Communications:** Prisoners have the right to send and receive letters and other mail from persons outside the prison. Such letters may be subject to scrutiny to ascertain that they do not contain unauthorised objects or, if the letters are to or from a prisoner in a security wing, that the contents do not include any message about criminal activities, escape or other similar action. Prisoners are allowed the use of a telephone unless the telephone call is believed to jeopardise prison security or counteract the prisoner’s adjustment in society. If necessary for security reasons, a prison officer may listen to the telephone conversation, but only after having informed the prisoner.

Prisoners may also receive visits to the extent that this can be conveniently arranged and the visit is not harmful to the prisoner’s rehabilitation. A prisoner may be denied visits that may jeopardise prison security.

**Work:** During working hours prisoners are obliged to work, study or attend programmes, and are paid for this work. Pay is calculated on the same basis as within non-prison business.
**Exercise:** Daily exercise is available to all prisoners. The CPT have expressed concern at the exercise facilities for high security prisoners.

**Sources**
CPT/Inf (99) 4: Report to the Swedish Government.
Justitie Departementet (Swedish Ministry of Justice) <www.justitie.regeringen.se>
Kriminalvården (Swedish Prison and Probation Service) <www.kvv.se>

**UNited Kingdom: England and Wales**

**Significant points:** The prison population has increased sharply in recent years. In 1992 there were 45,817 prisoners. In 1998 there were 65,298. In January 2004 the prison population was 73,688, giving a rate of 140 per 100,000, the highest imprisonment rate in the EU. Of these 17.8% were pre-trial, 5.9% were female, 3.1% were juveniles and 10.8% were foreign nationals. The rate of imprisonment for women has increased much more than the rate for men with an increase of 142% in the last ten years; 5,445 were serving life, a number higher than all the life-sentence prisoners in EU countries added together. In January 2004, 2,498 juveniles were in prison.

The Prison Service of England and Wales is one of the three separate prison jurisdictions within the UK. The Home Office is responsible for prison administration and there are 138 penal establishments.

Following the Anti-Terrorism, Crime and Security Act of 2001 the UK Government derogated from Article 5 of the ECHR in order to detain 13 non-UK nationals suspected of involvement in terrorism. The CPT visited these detainees in February 2002 and made a number of recommendations regarding right of access to a lawyer, opportunities for activities and exercise, health care provision, medical confidentiality, and visits.

The UK Government has faced a number of adverse rulings from the ECtHR. In 2002 the Court found that there had been a violation of Article 2 of the Convention as regards the circumstances of the death of Christopher Edwards, a pre-trial prisoner who was kicked to death in his cell in Chelmsford Prison by his cellmate. In 2001 it found a violation of Article 3 (inhuman or degrading treatment) in the case of Adele Price, a thalidomide victim with no arms or legs who was sent to prison for seven days for contempt of court in January 1995. A young prisoner, Zahid Mubarak, was murdered by his cellmate in 2000. In 2003 the Commission on Racial Equality reported that the Prison Service had failed to protect him sufficiently from a racially motivated attack. In October, the Appellate Committee of the House of Lords ordered the Home Office to conduct a public inquiry into Mr Mubarek's death.

The treatment of juveniles has been criticised by the UN Committee on the Rights of the Child and in 2003 the Parliamentary Joint Committee on Human Rights raised concerns about the government’s rejection of that criticism and in particular the government’s acceptance of the need to incarcerate between 2,000 and 3,000 children at any one time and the appropriateness of holding them in prison service custody.
Prison overcrowding caused concern and in 2003 the number of suicides was 94.

**Inspections by an independent body:** The Chief Inspector of Prisons is an independent statutory authority who is entitled to visit all prisons at any time. The Home Secretary appoints her for a period of five years. All reports are published, including the annual report, which is laid before Parliament. In her Annual Report for 2002-3 the Chief Inspector wrote of ‘a prison system under enormous and continuing pressure: as the prison population rose by 9% during the period’.

Independent Monitoring Boards (formerly called Boards of Visitors) provide lay oversight of prisons and immigration removal centres. Each Board is independent of the prison it monitors and submits annual reports to the Secretary of State. Board members can enter the establishment at any time to hear complaints and check on conditions.

**Separation of prisoners by category:** Women prisoners are always held separately from males, although they may be in the same prison. Male prisoners under the age of 21 are always detained separately from adults as outlined in national legislation. Unconvicted prisoners are held with convicted prisoners.

**The use of individual and shared accommodation:** In July 2003, 22% of prisoners (over 16,000 people) were sharing cells designed for one person. An estimated 57% of the prison population are held on their own in single cells. An estimated 38% of the prison population are being held two to a cell. This figure includes those held in both single and double cells. An estimated three per cent of the prison population are being held three to a cell in crowded double cells. An estimated 1,000 prisoners are being held in rooms for four to five people and an estimated 1,000 in larger rooms/dormitories, but no official system records this.

**Overcrowding and space per prisoner:** In December 2003 the prison population of England and Wales was 74,029. The total uncrowded capacity was 66,640, whilst the total maximum capacity (level of safe overcrowding) was 76,988. The capacities of prisons are not based on any standard specifications, nor is there any specification of the amount of space that is considered necessary for each prisoner.

**Medical care:** The Prison Act 1952 requires that each prison should have a medical officer. The Prison Rules 1999 state that the medical officer has care of the mental and physical health of prisoners. During their 2001 visit, the CPT delegation found that in all of the prisons visited, prisoners complained of delays in having access to a doctor. Since April 2003, the Department of Health has had overall budgetary responsibility for prison healthcare and prison health care has been provided by the National health Service rather than by health services in the Home Office. The government document Health Services for Prisoners (2002) underlines that prisoners should have equivalent access to health services.

Prisoners are not routinely screened for blood borne viruses, including HIV and hepatitis. HIV testing (and pre and post test counselling) is available on request. Prisoners in perceived risk groups are encouraged to apply for this. For HIV positive prisoners who are currently well, integration into the general prison community is the aim. In 1995, following the first recorded case of the transmission of HIV from one
prisoner to another in an English prison, written advice was distributed on the subject of condoms: Prison doctors should make condoms available to individual prisoners, on application, if there is a known risk of transmission.

The Prison Service does not routinely collect data on TB. Recently, however, the Health Protection Agency (HPA) has been contracted to provide a communicable disease data collection and monitoring service.

Mental health is a serious problem. The 2001 CPT delegation found that the transfer of mentally ill prisoners to hospitals caused problems in all of the prisons visited. Waiting prisoner patients ‘were not receiving the level of care required by their condition’. Research suggests 72% of male and 70% of female sentenced prisoners suffer from two or more mental health disorders.

**Rules for specific groups:** There are separate rules for prisoners aged under 21. The Youth Justice Board is responsible for the management of those under 18 and there are separate rules for this group.

**Disciplinary charges:** All disciplinary charges are dealt with at an oral hearing. The accused prisoner is present, can hear the charge against him and is allowed to speak in his own defence. Charges considered too serious for the Governor to handle are referred to an independent adjudicator. In these cases, the prisoner accused will be allowed to have legal representation at the hearing.

**Solitary confinement as a punishment:** Adult prisoners (over 21 years of age) can be held in disciplinary confinement for up to 21 days, those between 18 and 21 for a maximum of 10 days. No prisoner can be given a punishment of cellular confinement unless the medical officer says they are fit for punishment and there is agreement by a member of the Independent Monitoring Board. Those in disciplinary confinement are visited daily by a health care professional. Prisoners are allowed visits, a mattress and bedding, access to reading matter (unless this is denied as a separate punishment) and daily exercise.

**Requests and complaints:** If a prisoner’s concerns about prison conditions cannot be resolved informally, he may use the formal system for requests and complaints. A senior member of staff will discuss the matter with him. If the prisoner is still dissatisfied, he completes a form to be considered by the Governor. The Governor usually replies within seven days, in a sealed envelope.

The prisoner may appeal to the Area Manager of the Prison Service. If the prisoner is dissatisfied with the decision of the Area Manager, he may make an application for judicial review or make a complaint to the Prisons and Probation Ombudsman.

Members of the Independent Monitoring Boards can visit the prison at any time to hear complaints. The 2001 CPT delegation found that in one of the four prisons visited, prisoners ‘expressed great hesitation to file complaints and some claimed that pressure had been brought to bear upon them to persuade them to withdraw their complaints or to dissuade them from complaining.’
Communications: Subject to certain provisions, an unconvicted prisoner may send and receive as many letters and receive as many visits as he wishes within such limits and subject to such conditions as the Secretary of State may direct, either generally or in a particular case. Sentenced prisoners are entitled to a visit twice in every period of four weeks. This may be reduced if the Secretary of State so directs. The number of visits is dependent on the prisoner’s administrative status which depends on an assessment of the prisoner’s behaviour. Prisoners have access to pay telephones. All calls are monitored.

Exercise: Prisoners are entitled to spend time in the open air daily, ‘for such a period as is reasonable’. Following the 2001 visit, the CPT noted ‘misgivings about [this] very flexible wording’.

Access to a legal representative: Prisoners have access to legal visits, telephones and letters to contact existing legal advisers. All such contact is confidential. No distinction is made between contact with a legal adviser to complain about imprisonment conditions and for other reasons. There are restrictions on prisoners’ access to reference materials and the internet. There are, however, legal reference works in the library, and prisoners can have access to a laptop computer without internet access when preparing their own defence.

Sources
Case of Paul and Audrey Edwards v. the United Kingdom: Application number 46477/99.
Case of Ezeh and Connors v. the United Kingdom: Application numbers 39665/98 and 40086/98 respectively.
Her Majesty's Chief Inspector of Prisons for England and Wales, <www.homeoffice.gov.uk/justice/prisons/insp prisons>
HM Prison Service <www.hmprisonservice.gov.uk>
Independent Monitoring Boards, <www.homeoffice.gov.uk/justice/prisons/imb>
Joint Committee on Human Rights Eighteenth Report 2003, Stationery Office, UK.
The Prisons and Probation Ombudsman, <www.ppo.gov.uk>
**Inspections by an independent body:** The Chief Inspector of Prisons for England and Wales also inspects all prisons in Northern Ireland. Each prison has a Board of Visitors / Visiting Committee. Members do not receive remuneration. Boards submit an annual report to the Secretary of State, which is available to the public.

**Separation of prisoners by category:** Male and female prisoners are held separately. Pre-trial prisoners are held in the main security prison and are not always separate from convicted prisoners. Young prisoners are held in a separate prison.

**The use of individual and shared accommodation:** In general, prisoners are held in single cells.

**Overcrowding and space per prisoner:** There is no overcrowding.

**Physical conditions:** In 2001 the CPT noted that the cells in both prisons visited ‘had access to natural light and ventilation, and were mostly in a good state of repair’. Access to toilets and hand-washing facilities is available 24-hours a day.

**Medical care:** The NIPS aim is to ‘provide a level of health care which is at least equivalent to that which is provided by the Health Service for Northern Ireland, and which is appropriate to the particular nature of the prison population’. Primary care is delivered in-house by medical officers and local doctors employed by the Department of Health, Social Services and Public Health. Health and Social Services Trusts provide secondary and specialist care. In 2001 the CPT delegation noted that ‘newly-arrived inmates were promptly seen by a member of the health care team and, within 24 hours from their admission, by a doctor. Requests to see the doctor at other times were met without undue delay’.

The NIPS has a specific drugs policy and strategy, which is currently under review. Each prison has a drug co-ordinator who is responsible for implementing strategy and who is monitored by headquarters. A multi-disciplinary approach includes voluntary and statutory agencies. No needle exchange programmes are available. A drugs adviser post was created in August 2000 and recent initiatives include the introduction of voluntary drug testing and drug free areas.

Following its visit in 2001, the CPT noted delays in transferring prisoners to in-patient psychiatric facilities. They were told that ‘in the case of remand prisoners this situation could, on occasion, take up to a year’.

**Disciplinary charges:** Members of the independent Boards of Visitors may act as observers at internal disciplinary proceedings. The accused prisoner is informed of the charge and sufficient time to prepare for the adjudication is allowed. He may request a legal representative, is given the opportunity to question evidence and, at the discretion of the adjudicator, may produce any relevant witnesses. If found guilty, the prisoner can speak in mitigation and appeal against the decision to the Director General or the Secretary of State or request judicial review. Disciplinary charges that also constitute criminal offences may be dealt with by the governor or by the Courts.
Solitary confinement as a punishment: Cellular confinement will proceed only if the prisoner is certified physically and mentally fit by the medical officer.

Requests and complaints: Prisoners are entitled to make requests or complaints in confidence to the governor or to the independent Board of Visitors. Prisoners are issued with a requests and complaints form on request or if a verbal complaint is of a serious nature. Prisoners are given assistance in preparing these forms. A written response is given within 15 working days and reasons given for any decision. A prisoner may appeal against a decision.

Communications: Prisoners on remand are permitted three half hour visits per week. During the first week, visits do not have to be arranged in advance. Sentenced prisoners are entitled to one statutory and three privilege visits in four weeks, one of which may be on a Saturday. Privilege visits can be withheld if the prisoner breaks prison rules. Prisoners are permitted one ecclesiastical visit every six weeks. Generally, visits last for 30 minutes but each prison can be flexible. In 1996 the Prison Service issued a Citizen's Charter, which contains four standards of service that would be provided to visitors.

Activities: Written standards require that ‘all prisoners with an identified need can access an appropriate range of activities which provide suitable work experience knowledge and occupational skills’. Prisons provide a range of activities including engineering, information technology, horticulture, industrial cleaning and welding. Prisoners are allocated to approved activities programmes and employment and records of allocation are monitored. A prisoner needs analysis and customer satisfaction survey is carried out annually.

Education concentrates on raising literacy, numeracy and employability. Normally, courses are designed to meet recognised national standards. Sport and recreation are provided for all prisoners and qualifications may be gained in related areas, such as first aid. Services are quality assessed annually. Prisoners have access to a library where legal material is held.

At the time of the CPT visit in 2001, some prisoners were usefully occupied for an average of 37 hours whilst some (remand) prisoners ‘a mere 1 ¾ hours’.

Exercise: Prisoners are entitled to spend time in the open air daily.

Access to a legal representative: Prisoners have access to legal visits, telephones and letters to contact existing legal advisers. Correspondence with legal advisers is regarded as ‘privileged’ and all such contact is confidential. No distinction is made between contact with a legal adviser to complain about imprisonment conditions and for other reasons. There are restrictions on prisoners’ access to reference materials and the internet. There are however, legal reference works in the library.

Sources
Northern Ireland Prison Service <www.niprisonservice.gov.uk>
UNITED KINGDOM: SCOTLAND

Significant points: The Scottish Prison Service (SPS) is one of the three separate prison jurisdictions within the UK. In January 2004 the prison population was 6,602, giving a rate of 129 per 100,000. Of these 16.5% were pre-trial, 4.1% were female, 2.8% were juveniles and 1.2% were foreign nationals. This was the highest ever-recorded prison population. In 1992 there were 5,357 prisoners, in 1998 there were 6,082.

The Scottish Executive is responsible for prison administration and there are 16 penal establishments.

Scotland is one of the few European prison systems in which a large number of prisoners do not have continuous access to sanitary facilities. In 2001 a remand prisoner in Barlinnie Prison, the largest prison in Scotland, sought a judicial review on the grounds that the conditions of his detention contravened Article 3 of the ECHR. This was on the basis ‘(i) that the cell in which the petitioner is detained is grossly inadequate in living space, lighting and ventilation, particularly since he requires to share the cell with another prisoner; (ii) that the sanitary arrangements, which involve the process known as ‘slopping out’, that is, urination and defecation in vessels which are kept in the cell and emptied two or three times a day, are grossly inadequate; and (iii) that the extent to which he is confined in his cell is excessive, and the periods of exercise and recreation outside the cell are inadequate’ (Napier). At the time of writing (March 2004) the judgement is awaited.

Inspections by an independent body: Her Majesty's Chief Inspector of Prisons for Scotland is independent of the SPS and is appointed by the Scottish Executive. The Inspector can only recommend changes and has no executive powers. Reports are submitted formally to the Scottish Ministers and are published in full (except parts that contain confidential matters involving security issues). When published, they are accompanied by a formal ministerial response. All prisons have a Visiting Committee made up of lay members who have the right to visit a prison at any time and to talk to prisoners and staff in confidence.

Separation of prisoners by category: Women prisoners are always held separately from males. Convicted male prisoners under the age of 21 are detained separately from adults. Regulations require separation of civil, untried and young prisoners ‘as far as reasonably practicable’. Prisoners are categorised into ‘supervision levels’: high, medium or low, depending on the supervision and restriction on their movements considered necessary.

The use of individual and shared accommodation: Generally, single cell accommodation is preferred. However, overcrowding has led to significant double occupancy of cells designed for one person. In June 2003 the occupancy level based on official capacity was 107%. In the Chief Inspector of Prisons latest annual report, he stressed the ‘stark, bleak and unhappy’ effects of current overcrowding. Overcrowding is focused in pre-trial prisons.
Physical conditions: There is nothing specific regarding this in national legislation. In 2002, around 1,900 prisoners in Scotland were required to ‘slop out’ every day. The CPT raised concern about this in its 1996 report and recommended that the then target date of 1999 for the provision of integral sanitation in all cells should be brought forward. The failure to reach this target led to the Napier case mentioned above. In his annual report for 2002-03 the Chief Inspector of Prisons recommended the end of ‘slopping out’. He called the practice ‘a disgrace and a cause for shame’. In particular, he condemned the combination of toilet arrangements and eating arrangements in shared cells. The Executive has committed to ‘provide all prisoners with proper access to night sanitation and so bring to an end the unsatisfactory practice of slopping out’, although it has been estimated that this will take between five and eleven years. The rules state that the governor is responsible for ensuring that prisoners have access “at all reasonable times” to the means to maintain their personal hygiene (Rule 22).

Food: Legislation provides that prison food must be nutritious. Other considerations are provided for such as the need to consider, as far as reasonably practicable, prisoners’ religion and culture (Rule 21(1)). Prison governors are required to check the quality and quantity of prisoners’ meals daily and must likewise check the conditions under which food is prepared. During its sixth annual prisoner survey questionnaire, the SPS found that prisoners’ opinions relating to food in general were negative, with 56% describing quality as 'fairly bad' or 'very bad'.

Medical care: All prisoners are entitled to regular access to health care on a level equivalent to that in the local community. Health care is provided partly within the SPS and partly through local health services.

There is a requirement to maintain a registry on the medical conditions of prisoners (Rule 32).

An important recent development is the express provision of a specific complaint procedure for issues related to prisoners’ medical care. In addition, the Scottish rules also expressly provide for a complaint channel for prison doctors who are not satisfied with the lack of willingness on the part of the prison governor to attend a certain issue brought to the attention of the prison governor by the prison doctor (Rule 29(4)).

According to the Framework for Promotion Health in the Scottish Prison Service, there has been since 1995 a strengthening of relationships and partnerships with various bodies of the national health system.

Drug programmes are available in most prisons. There are no needle exchange programmes in place in Scotland. In the sixth prisoner survey, of the 56% of prisoners who reported using drugs in the past, 46% had received help in the prison for drug use.

A recent determination by a judge into the death of a prisoner (Determination of Sheriff R E G Younger) raised issues concerning the implementation of the SPS suicide strategy. In the course of the inquiry the Scottish Human Rights Centre expressed concern that the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act
1976 may be in breach of human rights legislation by failing to investigate deaths in custody effectively.

**Rules for specific groups:** There are no special rules governing the conditions of older people or women. There are separate rules for prisoners aged under 21.

**Disciplinary charges:** All disciplinary charges are dealt with at an oral hearing. The prisoner is present, can hear the charge against him and is allowed to speak in his own defence. Those who have grievances arising from the disciplinary system may also approach the Prisons Complaints Commissioner.

**Solitary confinement as a punishment:** No prisoner can be given a punishment of cellular confinement unless the medical officer certifies him fit for punishment. Prisoners under solitary confinement are allowed visits, a mattress and bedding, access to reading matter (unless this is denied as a separate punishment) and daily exercise. Those in confinement are seen daily by a health care professional and a medical officer sees the prisoner as often as necessary for his needs.

**Requests and complaints:** In the first instance, prisoners must use the internal complaints procedure. If this does not secure a resolution, the Prisons Complaints Commissioner investigates complaints from prisoners and reports to the Scottish Ministers.

**Communications:** Pre-trial prisoners are entitled to receive frequent visits of at least 30 minutes duration. Convicted prisoners may receive two visits a month. Prisoners have access to pay telephones; all calls are monitored. In the sixth prisoner survey, 63% of prisoners reported that their visitors experienced difficulties when visiting the prison. These ranged from cost and lack of transport to the stress of visiting.

**Activities:** Pre-trial prisoners are not required to work. Those convicted should work and are entitled to be paid earnings specified by the Secretary of State. However, there is a shortage of available work.

Prisons offer educational, cultural and behavioural programmes. Each prison governor is responsible for providing ‘reasonable facilities and opportunities to enable prisoners to participate in recreational activities outwith normal working hours’ and must ‘make arrangements for lending library services for the use of prisoners’.

**Exercise:** Every prisoner is entitled to take exercise for not less than one hour every day and to spend time in the open air at least once every day. He is entitled to associate with other prisoners except when the Governor orders otherwise.

**Access to a legal representative:** Prisoners have access to legal visits, telephones and letters to contact existing legal advisers. Correspondence with legal advisers is privileged and all such contact is confidential. There are restrictions on prisoners’ access to reference materials and the internet.

**Sources**
Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations (1997).
CPT/Inf (96) 11: Report to the Government of the UK.
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Napier case, <www.scotcourts.gov.uk/opinions/P739_01.html>
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The Prisons and Young Offenders Institutions (Scotland) Amendment Rules (2002).
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A NOTE ON SOURCES

All country reports drew on the following sources which are not repeated at the end of each country report:
Responses to questionnaires sent by ICPS to prison administrations.
World Prison Brief: www.prisonstudies.org

All EU country reports drew on the following which is not repeated at the end of each country report:

All accession country reports (except Cyprus and Malta) drew on the following which is not therefore repeated at the end of each accession country report: